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PRIVATE PROPERTY AND THE PUBLIC INTEREST:  
CITIZEN INVOLVEMENT  
IN STATE LAND USE CONTROL

By

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PART A

THE LEGISLATIVE BACKGROUND

## I. THE EMERGENCE OF STATE LAND USE CONTROLS

Over the past decade, many state governments have reassumed a significant role in regulating the use of land. During the 1920s and 1930s, most states delegated police power authority over land use to counties and municipalities. Through state enabling legislation, local governments were empowered to plan, zone, and control the subdivision of land. For over thirty years, there was little discontent with this fundamental allocation of authority. The desultory pace of development in the 1930s and 1940s did little to challenge the capacities of local regulatory agencies. Indeed, given the permissiveness of state enabling statutes, most local governments outside of major metropolitan areas chose to avoid the exercise of land use powers. Within metropolitan-area jurisdictions, land use conflicts were seen as local urban problems that rarely merited the attention of rural-dominated state governments.

In the late 1950s and early 1960s, these circumstances changed dramatically, kindling renewed interest in the allocation of authority over land use and setting the agenda for innovative state action over the last ten years. These changes were of two kinds: 1) the emergence of land use conflicts which clearly transcended local urban concerns and 2) the reemergence of state governments as powerful vital actors in the American federal system.

### Extra-local Issues

In the 1950s, two major shifts in population--from southern and other rural areas to the city and from the city to suburbia--precipitated

a dramatic increase in the pace of new residential and commercial developments. In all too many cases, unprepared local governments were overwhelmed by new growth which strained local treasuries and local public services. Land use controls were often exercised in a haphazard and inconsistent manner. Many decisions were clouded by charges of corruption. The cumulative effects of unguided development in hundreds of separate jurisdictions soon became evident in the form of the metropolitan-wide ills which are so evident today--environmental degradation resulting from overly rapid and poorly executed development, transportation problems stemming from sprawling growth, social tensions precipitated by residential segregation in the suburbs.

As these problems emerged in the early 1960s and were linked to short-sighted and parochial patterns of land use regulation, a constituency dedicated to reform of land use governance gradually arose. Consisting initially of planners, architects, lawyers, and other land use professionals, the reform coalition steadily expanded to include many civic associations, environmental organizations, and business groups.<sup>1/</sup> By the mid-1960s, the reform coalition also included the federal government, which, through a variety of reports, study commissions, and grant-in-aid programs, attempted to encourage basic change in growth management practices.<sup>2/</sup> At the core of the changes advocated by reformers was the assumption of a much more active role by state government in guiding and supervising local regulatory powers, including the definition of planning goals and guidelines, the imposition of uniform procedural standards, the identification of areas and activities of special state-wide concern through state planning, and the establishment of a state-level adjudicatory body to handle appeals of local regulatory decisions. These elements of reform were perhaps most convincingly and influentially advocated in the preparation

of a new Model Land Development Code by the prestigious American Law Institute.<sup>3/</sup>

During the same period in which the movement for general reform of local growth management practices was gathering momentum, a number of other specific problems were coming to the fore.

One set of problems involved the siting of large-scale developments such as power plants, oil refineries, second home communities, and surface mines.<sup>4/</sup> Due to the scale of these developments, their impacts inevitably "spilled over" across a number of jurisdictions. They also produced major demands for state capital investment in transportation facilities, sewage disposal, and so forth. Beyond these aspects of extra-local interest, there was also growing concern that highly restrictive local regulations in some communities would impede the growth in jobs and provision of essential public services provided by large-scale developments. For example, in several states during the mid 1960s, local opposition to the construction of power plants prevented the development of new generating capacity needed to overcome repeated "brownouts" and voltage reductions.

As these problems attained prominence across the nation--oil refineries in Maine and Delaware, power plants in New York and Washington, second home developments in Vermont and Florida, surface mines in Montana and Ohio -- there were increasing demands from developers and industrialists as well as environmentalists and land use professionals for special-purpose state laws to deal with them. Support for innovative state action through reports, executive orders, and proposed national legislation also came from the federal government.<sup>5/</sup>



A second set of extra-local concerns involved the rapid development and destruction of irreplaceable natural areas. Such areas--including wetlands, shorelands, coastal estuaries and beaches, deserts, and mountainous areas--fulfull a variety of vital functions.<sup>6/</sup> They provide wildlife habitat; serve as reservoirs and sources for much of the nation's water supply; encompass most outdoor recreational activities. The frenetic pace of development in and around natural areas during the 1950s and 1960s promised to destroy most of this precious natural heritage within one generation. For example, twenty-nine percent of the coastal wetlands on Long Island were bulkheaded and filled for residential development between 1955 and 1964.<sup>7/</sup> The quality of water in such estuaries as Delaware Bay, Narragansett Bay, and Puget Sound declined significantly between 1955 and 1965 as rapidly expanding industrial enterprises with shoreline locations discharged their wastes into public waters.<sup>8/</sup> In the Southwest, hundreds of thousands of acres of desert and mountainous areas were subdivided and sold for second home development.<sup>9/</sup> As these and other problems attained statewide and national recognition, the demand again rose for special-purpose state programs to protect natural areas. The federal government helped to set the agenda for state innovation. at an early stage through proposed national legislation on wetlands, shorelands, and "critical environmental areas."<sup>10/</sup> In the case of shorelands protection a major federal program was established with the passage of the Coastal Zone Management Act of 1972.<sup>11/</sup> This program provides substantial grants-in-aid to the states for the planning and management of land use in coastal areas.

#### The Renaissance of State Government

By the mid to late 1960s, then, strong discontent had arisen with the way in which authority over land use was being exercised -- or not being exercised -- by local governments. In a number of different areas, reformers looked to the

states to assume a more vigorous and assertive role in land use control. Prior to the mid 1960s, there would have been grave doubt about the capability or willingness of state governments to assume such a role. Indeed, during the 1950s, critics of land use governance rarely looked to the states, preferring instead to invest most of their energy in schemes for metropolitan consolidation and regional government. The states were viewed as antiquated, tradition-bound, rural-dominated relics of an earlier period in American federalism. Yet, by the mid 1960s, the states made a remarkable comeback, assuming the mantle of potential leadership not only in land use but in many other areas of public policy.

Three factors were of greatest importance in the renaissance of state government. First, after decades of inactivity dictated by the malapportionment of state legislatures, the precedent-setting Baker v. Carr verdict of 1962 shattered traditional presumptions about the rural domination of state government.<sup>12/</sup> From that point onward, malapportioned state legislatures steadily gave way to more representative bodies with larger numbers of urban and suburban members. As these new members--oriented to problems of urban growth, transportation, education, and so forth--came to dominate the legislatures in many states, the realization grew that state government could play a significant role in addressing urban concerns.<sup>13/</sup> This applied particularly to areas such as land use control, which relied upon the delegation of police power authority vested in the states.

Second, the 1960s was a period of extensive modernization and reorganization of state government. While not completely independent of the reapportionment of state legislatures, this movement had its origins in a long-standing concern among academics, officials, and politicians that state governments either had to modernize or wither away.<sup>14/</sup> Most state governments were composed of an incredible

array of independent commissions, boards, and agencies, lacking any systematic mechanism for executive coordination or oversight by elected officials. State planning and budgetary control were weak or non-existent. State legislatures functioned on a part-time basis with small staffs and inadequate salaries. Legislative oversight was rarely exercised.

The reorganization of state government got under way in the early 1960s with the advent of strong progressive governors like Rockefeller in New York, McCall in Oregon, Sanford in North Carolina, and Romney in Michigan. In cooperation with newly apportioned state legislatures, they streamlined the executive branch of state government into a small number of consolidated departments and introduced a central planning and budget review agency as an integrator of state government activity.<sup>15/</sup> At the same time, under the prodding of organizations like the Citizens Conference on State Legislatures and the Council of State Governments,<sup>16/</sup> state legislatures were modernizing their own functions. The result of these changes was that, by the end of the 1960s, state governments were in a much stronger position to undertake new policy initiatives.

Finally, the federal government played an important part in strengthening the capacities of state governments during the 1960s. Federal grant programs which required area-wide planning and coordination were enacted in great profusion during the Kennedy and Johnson years. While federal programs traditionally relied on sub-state regional agencies for the area-wide integration function, most of the new programs also required state plans. This reflected not only the general resurgence of state government, but also the realization that many problems required a broader perspective than regional agencies could provide. With federally-subsidized planning underway in transportation, pollution control and mass recreation, and with state planning agencies receiving general support from the HUD 701 program, the credibility of state supervision of land use was greatly strengthened.<sup>17/</sup>

### Patterns of Innovation

In response to these demands and developments, a wide variety of legislation authorizing a stronger state role in land use governance was enacted between 1965 and 1975. However, contrary to the views of those who foresaw or advocated a "quiet revolution" in land use control spreading rapidly across the nation, the reassertion of authority by state governments has by no means proceeded without resistance. As recent studies demonstrate, most reforms of land use governance are concentrated among the states of a particular region or regions of the country.<sup>18/</sup> For example, mandatory local zoning under state supervision is concentrated exclusively in the western states; the assertion of state control over coastal wetlands is limited primarily to the Eastern seaboard states. Only in a few cases has rapid diffusion occurred on a nationwide basis.

To provide a better understanding of the overall scope and pace of innovation on land use controls, this section briefly examines the diffusion of three of the most comprehensive types of state land use reforms: a) statutes which establish a state-level land use planning process, b) laws which authorize state regulation of large-scale development siting and c) legislation which sets state standards for development in "critical areas." These three types of statutes roughly parallel the major recommendations for innovation in land use control made by the Model Land Development Code of the American Law Institute.

State Land Use Planning. Table 1-1 presents data on the diffusion of legislation which explicitly authorizes the preparation of a formal statewide land use plan. The listing of a state does not imply that a formal state land use plan has been officially adopted; only that a planning process has been authorized by statute.

TABLE I-1

DIFFUSION OF LEGISLATION AUTHORIZING STATE  
LAND USE PLANNING

<u>State</u>	<u>Year of Adoption</u>	<u>Statute</u>
Vermont	1970	Vt.S.A., Title 10, Section 6001 et. seq.
Colorado	1970, 1971	C.R.S., Section 106-4 et. seq.
Florida	1972	
Nevada	1973	Nev. R.S., Section 321 et. seq.
North Carolina	1974	N.C.R.S., Section 113A-150 et. seq.
Georgia	1974	
Wyoming	1975	Wyo. S.A., Section 9-856
Massachusetts	1975	Chapter 807, New Laws of 1975
Hawaii	1975	H.R.S., Section 205-12
Connecticut	1976	

In most cases, the authorizing statute requires that the plan prepared by an executive agency must be submitted to the legislation for final review and approval. In some states, such as Vermont, submitted plans have been rejected by the state legislature. Indeed, no state legislature has as yet officially adopted a state land use plan.

The objective of a statewide land use plan is to provide guidance to state and local agencies in the exercise of their regulatory responsibilities, acquisition authority, and capital improvement spending. State land use plans are often viewed as key elements in the regulation of large-scale developments and the protection of critical environmental areas. For example, Vermont authorized the preparation of a state land use plan as part of its effort to control the siting of developments over 10 acres in size. In other states, such as Colorado and Wyoming, the major motivation for the preparation of a state land use plan is the desire to insure that local governments carry out their responsibility for comprehensive planning in an reasonable and non-parochial manner. In still other states-- i.e. Connecticut and Rhode Island--the authorizing statute derives from a desire to guide state expenditures on transportation facilities, sewage treatment, water supply, and so forth in directions that are compatible with a limited rate and pattern of growth.

Ten states have adopted this variety of legislation over a period of seven years since first passage. This diffusion rate is slightly above average, if we define the average rate of diffusion for innovative state statutes in the post-war period as <sup>19/</sup>twenty adoptions over twenty years. There are several "regional clusters" of adoptions--the West (Colorado, Nevada, Wyoming, Hawaii), the New England states (Vermont, Massachusetts, Connecticut) and the South (North Carolina, Florida, and Georgia). This clustering conforms with the normal pattern of emulation and competition among neighboring

states that share close communications links and common problems.<sup>20/</sup> With the exception of Massachusetts and Connecticut, none of the large industrialized states of the Northeast and Midwest have yet indicated much interest in state land use planning. In some states, such as Pennsylvania and Ohio, state planning agencies have engaged in preliminary informal exercises on their own initiative, but a formal planning process with legal status has not been proposed or considered by the legislature. This inactivity contrasts with the typical leadership role played by the larger states in introducing and stimulating the spread of statutory innovations.

The prospects for future diffusion of statutes authorizing state land use planning have been greatly affected by the demise of the proposed National Land Use Policy and Planning Assistance Act sponsored by Senator Henry Jackson and Representative Morris Udall.<sup>21/</sup> That proposed bill provided substantial federal grants-in-aid for the preparation of state-level land use plans. If the national bill had been enacted, it is likely that the innovation would have spread quite rapidly across the nation, despite the sensitive ideological and intergovernmental issues involved in the assertion of state authority over planning. Indeed, several of the existing adoptions--including those in Nevada, North Carolina, and Georgia--seem to have been spurred primarily by the anticipation of federal funding under the proposed national act.

Without federal funding, the prospects for future adoption look best in the West and South--regions where there are already a number of active states and where rapid growth continues to be a problem. While recent attempts to enact a state land use planning bill through the legislature failed in Washington and Idaho, considerable interest remains in these states.

In the South, legislative study commissions in Kentucky and Tennessee are examining the need for a formal state land use plan and there are increasing demands for the formalization of a state plan in Virginia.

Some interest is also evident in the Midwest--particularly Iowa and Michigan. However, passage of an innovative statute has been blocked for several years in both state legislatures and the prospects for enactment in the near future are not bright.

It does not seem likely, then, that the rate of diffusion will increase dramatically in the absence of a national land use bill. We anticipate the continuation of an average or slightly above average rate of diffusion.

Siting of Large-Scale Developments. Table 1-2 presents basic data on the diffusion of large-scale development siting legislation. While these statutes vary substantially in the way in which they allocate operational responsibility for planning and permitting between state, regional, and local government agencies, they each incorporate at least two core elements:

- (1) They establish a set of statewide policy criteria and/or a planning process to identify desirable and undesirable areas for large-scale development.
- (2) They vest a state regulatory agency with the power to enforce the criteria and/or plans through some form of state-level review of site applications.

This innovation also exhibits a strong pattern of regional clustering. Of the six states that enacted the innovation by December 1975, four were in the Northeast. Maine initiated this type of statute in 1970 in response to heavy pressure for industrial development in its scenic coastal zone. Vermont followed shortly with a law aimed primarily at the control of major second-home subdivision developments. Two of the more recent enactments, in Delaware and New Jersey, limit state-level control of large-scale development siting to projects on coastal land. The motivation in these cases was primarily to protect water quality and valuable wetlands from further degradation by heavy industrial development. Legislative activity in the Northeast continues to



TABLE I-2  
DIFFUSION OF LEGISLATION AUTHORIZING STATE REGULATION  
OF LARGE-SCALE DEVELOPMENT SITING

<i>State</i>	<i>Year of Adoption</i>	<i>Statute</i>
Maine	1970**	Site Location of Development Act, Me. R.S., Title 38, Section 481 to 489
Vermont	1970**	Vt. S.A., Title 10, Section 6001 to 6089
Delaware	1971*	Delaware Coastal Zone Act. Del. C.A., Section 7-7001 to 7-7013
Florida	1972**	Florida Environmental Land and Water Management Act of 1972, F.S.A., Section 380.012 to 380.10
New Jersey	1973*	Coastal Area Facility Review Act: N.J.S.A., Section 13:19-1 to 13:19-21
Wyoming	1975**	Industrial Development Information and Siting Act. Wyom. S.A., Section 35-502.75 to 35.502.94

*Proposed Legislation<sup>1</sup>*

Wisconsin (Defeated by House, 1974)  
Idaho (Defeated by Senate, 1975)  
New Hampshire (Defeated by House, 1975)  
Utah (Defeated by House, 1975)  
Iowa (Passed by House, tabled by Senate, 1975)

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\*Coastal Areas Only  
\*\*Entire State

1. Reported out to a full chamber during last two sessions.

be vigorous. The New Hampshire legislature narrowly missed passage of a comprehensive siting statute in 1975 and the Maryland legislature enacted a closely-related energy facilities siting act in 1975.

Outside the Northeast, only Wyoming and Florida have enacted an innovative siting law. Wyoming's action seems to be the forerunner of more extensive legislative activity among the western states. During 1975, large-scale development siting statutes came very close to approval in the Idaho and Utah legislatures. Montana and North Dakota passed legislation during 1975 providing state-level control over the siting of large-scale energy conversion and development facilities. These initiatives form a favorable base from which to consider more inclusive siting legislation. All of the western states undertaking legislative activity are reacting to the same phenomenon-- the initiation of rapid industrial development due to the availability of large, exploitable energy reserves.

In the South, Florida's example has as yet stirred no related activity among the other states of the region. Of course, Florida is in many aspects unique. It's climate and unique flora and fauna have attracted a far higher rate of growth than that of any other state in the region and it has historically been the site of extremely large subdivision developments.

A striking feature of Table 1-2 is again the absence of legislative leadership by the larger, wealthier, and more industrialized states that have traditionally taken the lead in innovation, such as California in the West, New York and Massachusetts in the Northeast, and Michigan in the Midwest. <sup>22/</sup> Indeed, the two initial innovators in the Northeast are rural and agricultural states with small dispersed populations. This pattern seems to reflect the shift in growth away from the larger states as well as stronger traditions of sophisticated local siting and development control in these states.

The diffusion rate for large-scale development siting legislation has been average--six adoptions over a five-year span. Legislative activity has been consistent, with at least one enactment or vote in a full chamber every year except 1971.

The diffusion rate of this innovation would also unquestionably have been increased by the passage of the proposed national land use bill. The Jackson-Udall proposal placed a significant emphasis on state level siting control and provided funds for the support of the necessary administrative apparatus. In the absence of this federal subsidy, many state legislatures have been reluctant to allocate scarce state funds to support a new bureaucratic agency. This factor has impeded the passage of legislation in at least two states (New Hampshire and Utah) and will continue to exercise a retarding effect. The most likely course of future legislative action is thus the continuation of an average diffusion rate.

Protection of Critical Environmental Areas. A large proportion of legislative action on state land use control in the period 1965-1975 was devoted to the protection of particular types of valuable natural areas; including, most prominently, wetlands, shorelands, and coastal lands. This piecemeal approach to the preservation of natural areas has aroused some discontent among environmentalists, ecologists, and planners who advocate a more comprehensive and inclusive approach to the protection of unique or unusual land areas. This view first found its way into prominence in drafts of the ALI Code, which recommended that the states devote special attention to a broad class of "critical environmental areas"; including not only a variety of lands possessing unique ecological significance, but also those characterized

by natural hazards or unusual conditions (i.e., steep slopes, earthquake zones, etc.).<sup>23/</sup> This approach was first adopted by Florida in 1972 as part of its Environmental Land and Water Management Act. Florida's action arose in response to the impact of a severe drought and apprehension about the destruction of the state's vital aquifer system.<sup>24/</sup>

Table 1-3 presents the record of subsequent diffusion of critical environmental areas legislation among the other states. The typical statute establishes a set of state policy standards and/or a planning process for the identification and designation of critical environmental areas. Most statutes leave state agencies with a broad grant of discretionary authority to define critical areas boundaries as they see fit. The statutes vary widely in implementation responsibility. Most provide at least an initial permitting role for local government, but differ in the strength of review authority provided to regional and/or state government.

Like the two other innovative statutes, critical environmental areas legislation displays a marked regional focus. The most active region in embracing this innovation has been the West, where four states have adopted the legislation over the last three years. Two other western states, Idaho and Arizona, came close to passing legislation in 1975. In Arizona, for example, proposed legislation was defeated in the Senate at the last moment by a few votes.

Outside the West, there have been only two scattered adoptions: Minnesota in the Midwest and Maryland in the Northeast. One feature this statute shares with the other two statutes is the absence of action by any of the major industrial, urbanized states. With the exception of Florida, the innovative states are largely rural and agricultural, with small populations.

The rate of diffusion through 1975 was somewhat more rapid than average, seven states over a span of four years. Following Florida's

TABLE I-3

DIFFUSION OF LEGISLATION AUTHORIZING STATE REGULATION  
OF DEVELOPMENT IN CRITICAL AREAS

<i>State</i>	<i>Year of Adoption</i>	<i>Statute</i>
Florida	1972	Florida Environmental Land and Water Management Act of 1972, Fla. Stats. Ann., Section 380.05
Nevada	1973	Nev. R.S., Section 321.640 to 321.810
Minnesota	1973	Critical Areas Act of 1973. M.S.A., Section 116G.01 to 116G.14
Oregon	1973	O.R.S., Section 215.010 to 215.990
Colorado	1974	C.R.S., Section 106-7-101 to 106-7-502
Maryland	1974	The Public Gen'l Laws of Md., Article 88C, Section 1-12
Wyoming	1975	The State Land Use Planning Act., Wyo. S.A., Section 9-849 to 9-862

*Proposed Legislation<sup>a</sup>*

Georgia (Defeated by House, 1974)  
Wisconsin (Defeated by House, 1974)  
Iowa (Passed by House, tabled in Senate, 1975)  
Idaho (Defeated by House, 1975)  
Arizona (Passed by House, defeated by Senate, 1975)  
South Dakota (Passed by House, defeated by Senate, 1975)  
New Hampshire (Defeated by House, 1975)

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1. The Utah legislature passed a critical areas act during its 1974 session, but it was repealed by statewide referendum, November 1974.

2. Reported out favorably to a full chamber during last two sessions.

adoption in 1972, the pace of action increased in 1973 (three adoptions) and 1974 (two adoptions), reflecting the stimulus of national publicity and debate over the proposed Jackson-Udall land use bill. That proposal included federal grants-in-aid for critical areas protection programs. There was a slow-down in adoptions during 1975. Despite legislative debate in many states, only Wyoming enacted a critical environmental areas protection statute in 1975.

Several factors which have recently impeded acceptance of the innovation are repeatedly emphasized in legislative debates.

One is that the adoption of special-purpose wetlands and shorelands protection statutes has diminished the urgency of legislative action on broader critical environmental areas laws. Once wetlands or shorelands statutes, or both, are enacted, the need for a general critical areas statute seems less pressing.

Another is cost. Difficult fiscal conditions are discouraging state legislatures from setting up new and elaborate programs, particularly when the programs promise no significant economic improvements for citizens. With federal funds no longer in the offing as they were when the Jackson-Udall bill appeared likely to pass, advocates of critical areas legislation must now compete with advocates of other state-financed programs.

A third factor, which also affects wetlands and shorelands legislation, is the argument over compensation to owners of land who will be subject to severe restrictions on their ability to exercise property rights. In Arizona, for instance, critical areas legislation was defeated in 1975 due to a dispute between House and Senate over a just compensation formula.

Summary

The reassertion of state authority over land use has not been a rapid nation-wide process similar to the extraordinary diffusion of the Standard Zoning Enabling Act (SZEa) some fifty years ago. After ten years of public outcry, planning studies, proposed national legislation, and innumerable state legislative debates, there are still large areas of the nation in which the states remain passive spectators in the control of land use. Adoption of the three most comprehensive statutes remains largely regionalized. More rapid diffusion seems dependent on the passage of a national land use bill which will foot the costs of planning and administration that many states are unwilling to bear themselves.

On the other hand, the three comprehensive statutes do display an average, steady pace of diffusion which indicates that, like most other innovative statutes, they will gradually gain acceptance on their own terms as legislative norms. Recent research on the diffusion of statutory innovations indicates that once a "critical mass" of twenty or so states has acted, <sup>25/</sup> the pace of diffusion picks up markedly among the remaining states. In the absence of a revived federal initiative, this critical mass stage should be reached in the mid-1980s for each of the three innovations.

In some of the narrower, special-purpose categories of legislation, the critical mass point already seems to have been reached. Statutes authorizing state regulation of power plant siting, protection of shoreland areas, and preservation of wetlands have diffused at an above average pace over the last decade. They have been more widely accepted across the different regions of the nation than the comprehensive statutes. With federal support

for coastal zone programs available, the prospects for further diffusion of shorelands and coastal protection laws are excellent.

The overall picture then is one of consistent but regionally-focussed diffusion of the more comprehensive statutes and more rapid and widely-dispersed adoption of some of the narrower statutes. While this pattern does not fit the vision of some of the more enthusiastic and committed supporters of state land use controls, it still merits close attention as a significant trend in intergovernmental relations and the protection of the environment. A growing number of states will be struggling with efforts to implement these innovative legislative mandates over the coming years. The remainder of this study is devoted to intensive analysis of one major implementation issue: the effectiveness of citizen involvement in state land use decision-making.



NOTES -- CHAPTER I

1. The substance of the reform coalition's critique of local land use controls is perhaps best summarized in the Report of the Task Force on Land Use and Urban Growth of the Citizens Advisory Committee on Environmental Quality, William K. Reilly (editor), The Use of Land: A Citizen's Policy Guide to Urban Growth (New York, Thomas Y. Crowell, 1973). The diversity of the Task Force's composition testifies to the breadth of the reform coalition by the early 1970s.
2. See Advisory Commission on Intergovernmental Relations, Urban and Rural America: Policies for Future Growth (Washington, D.C.: G.P.O., 1968), pp. 134-135; National Commission on Urban Problems, Building the American City (Washington, D.C., G.P.O., 1969), pp. 237-239.
3. The preparation of a new ALI Code was initiated in 1966 under a grant from the Ford Foundation. Even in its various draft versions, the Code was an influential force in shaping state land use reforms. For example, the Florida Environment Land and Water Management Act of 1972 was based largely on ALI Code recommendations. The final version of the ALI Code was published in 1975. The American Law Institute, A Model Land Development Code (Philadelphia, The Institute, 1975).
4. On the problems of large-scale development siting, see Special Committee on Environmental Law, Development and the Environment: Legal Reforms to Facilitate Industrial Site Selection (Chicago: American Bar Association, 1975); Michael Baran, "Environmental Decision-Making and the Siting of Facilities," 5 Environmental Law Reporter 50089 (1975); Daniel Bronstein, "State Regulation of Power Plant Siting," 4 Environmental Law 273 (1973).
5. See Office of Science and Technology, Executive Office of the President, Electric Power and the Environment (Washington, D.C.: G.P.O., 1970); Fred Bosselman and David Callies, The Quiet Revolution in Land Use Control (Washington, D.C.: Council on Environmental Quality, 1971).

Proposal for national legislation on surface mine siting, power plant siting, and large-scale development siting may be found in Council on Environmental Quality, The President's 1971 Environmental Program (Washington, D.C., G.P.O., 1971).

6. See United States Water Resources Council, The Nation's Water Resources, (Washington, D. C.: G. P. O., 1968); John Terborgh, "Preservation of Natural Diversity," 24 Bioscience 715 (1974); The Preservation of Natural Diversity: A Survey and Recommendations, Final Report to the Department of Interior (Washington, D. C.: The Nature Conservancy, 1975); John Clark, Coastal Ecosystems (Washington, D. C.: The Conservation Foundation, 1974).
  7. Ralph Green, Wetlands on Long Island (Hauppauge, New York: Nassau-Suffolk Regional Planning Board, 1972).
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11. P.L. 92-852. On the operation of the coastal zone management program, see Coastal Zone Management: The Process of Program Development (Sandwich, Massachusetts: Coastal Zone Management Institute, 1974).
  12. For an analysis of the impact and implications of the re-apportionment decisions, see Malcolm Jewell, The State Legislature, (New York: Random House, Revised Edition, 1969); Nelson Polsby (editor), Reapportionment in the 1970s (Berkeley, California: University of California Press, 1971).

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21. Lyday, The Law of the Land, op. cit., discusses in detail the various versions of proposed national land use legislation, the reasons for their failure, and the implications of their demise. See particularly pp. 41-51.
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## II. LEGISLATIVE MANDATES FOR CITIZEN INVOLVEMENT

One of the most striking aspects of recent legislative enactments authorizing the exercise of land use controls by state agencies is the almost universal emphasis on the importance of citizen involvement in decision-making. Legislative concern with public involvement takes two forms.

First, there is widespread emphasis upon making citizen involvement more systematic and programmatic--i.e. broadening the scope of participation, insuring access to all phases of decision-making, integrating public education with citizen participation. For example, Oregon's well-known land use law of 1973 (S.B. 100) calls for "widespread citizen involvement in all phases of the planning process." Or the Massachusetts Growth Policy Development Act of 1975 encourages "the initiation of a locally-oriented participatory planning process to enable representatives from various interest groups in each municipality in the commonwealth to evaluate the effects of unplanned and uncoordinated growth and development patterns, formulate future growth and development goals which meet the needs of the diversity of residents in each municipality ... and to contribute substantially to the formulation of state growth and development policies and objectives."

The second aspect of increased emphasis on citizen involvement is detailed specification of procedural participation rights which facilitate access to administrative proceedings and stimulate governmental accountability. As part of the general trend toward more concern with procedural due process evidenced in such statutes as state administrative procedure acts, environmental impact acts, and freedom of information acts, recent land use

enactments stipulate in great detail public hearing requirements, notification procedures, appeal rights for affected citizens, and so forth. Hawaii's Act 193 (1975), for example, devotes almost one-third of its text to specification of guidelines for public intervention and participation in the proceedings of the State Land Use Commission. The Minnesota Power Plant Siting Act (1972) dictates representation requirements for mandatory citizen advisory committees at great length and specifies that any "aggrieved person" may initiate judicial review of state agency decisions on power plant siting.

Why have state land use statutes devoted such attention to citizen involvement? This chapter examines the genesis of legislative mandates for citizen involvement and how these mandates relate to the general evolution of administrative practice in American democracy.

#### Citizen Involvement in Administrative Decision-Making

Prior to the 1930's, the exercise of administrative discretion was rarely viewed as a major problem in American democracy. In the first place, administrative agencies typically enjoyed little discretion. Legislatures, jealous of their own power and prerogatives, tended to prescribe and circumscribe the authority of administrative bureaucracies in fine detail. As Bryce noted about the American version of democracy at the turn of the century:

"It is a great merit of American government that it relies very little on officials (i.e. administrators) and arms them with little power of arbitrary interference. The reader who has followed the description of Federal authorities, state authorities, county and city or township authorities, may think there is a great deal of administration; but the reason why their descriptions are necessarily so minute is because the powers of each authority are so carefully and closely restricted".<sup>1</sup>

Second, as a consequence of the overall professionalization of the civil service and the emergence of a public administration discipline in the early 1900s, many citizens put great faith in the "neutral competence" and "rationality" of administrators. Their expertise, it was believed, would lead to an accurate determination and defense of the broad public interest. <sup>2/</sup>

These conditions began to change in the late 1920's and early 1930's. Faced with the pressure of rapid economic expansion and then abrupt economic collapse, legislatures created many specialized administrative bureaucracies and regulatory agencies at federal, state, and local levels. These bureaucracies were typically provided with broad discretionary powers.

As James Landis noted in his classic essay, the delegation of broad powers to these agencies resulted from a profound feeling of helplessness on the part of the traditional branches of government: "The administrative process is, in essence, our generation's answer to the inadequacy of the judicial and legislative processes." <sup>3/</sup>

To take a relevant example, it was in this period of growing administrative power that the establishment of land use regulatory agencies took place. Under the leadership of Commerce Secretary Herbert Hoover, the Federal government prepared and publicized the Standard State Zoning Enabling Act and the Standard City Planning Enabling Act during the 1920's. Widely enacted by state legislatures in the 1930's, these laws allowed local governments to set up independent planning and zoning commissions which were provided with extremely wide discretion (e.g., "promoting the health, safety, morals, or the general welfare of the community"). <sup>4/</sup> Their decisions were subject only to often cursory review by local legislative bodies.

During this period of enormous expansion of discretionary authority in administrative agencies, there was still confidence in the professionalism of the bureaucracy. Of course, there were some vocal opponents of the departure from carefully specified mandates and limited authority, but these critics came primarily from the ranks of the "vested interests" whose actions were subject to governmental regulation and scrutiny. Since most of the protest came from those whose activity was deemed to be contrary to the broad "public interest," the criticism merely reinforced confidence in the objectivity and responsiveness of administrative agencies. Only a few observers in law and political science perceived the potential danger to democratic practice in the delegation of such broad discretionary powers to administrators who were not subject to direct popular accountability.<sup>5/</sup>

It was not until after World War II that public concern about the control of administrative discretion began to develop into a major force. This concern was stimulated by a number of factors, including pervasive discontent with oppressive wartime administrative controls and growing unhappiness among minority and low-income groups over arbitrary and arrogant bureaucratic decision making in the development of new social programs.

Perhaps the single most important factor in the genesis of the movement to bring the bureaucracies under greater public control was the recognition that the aggressive, adversary relationship between regulatory agencies and regulated parties that prevailed during the New Deal era had been transformed into a more comfortable, cooperative posture. As numerous critics and observers discovered, regulators and regulated parties formed powerful, autonomous "subgovernments," within which bargaining and back-scratching were the prevailing norms.<sup>6/</sup>

This cooptation or "capture" of the bureaucracies and commissions, particularly at the federal level, was widespread enough to cause severe



disillusionment with the doctrines of "neutral competence" and "professional objectivity." Thus, citizens began to demand some means for insuring greater responsiveness to public desires and for enforcing the accountability of administrative officials.

Three groups have been of foremost importance in supporting increased citizen involvement in administrative decision-making.

First, many social scientists and policy analysts have stressed the need for direct public involvement because of concern about the distance and non-responsiveness of administrative agencies. <sup>7/</sup> These advocates have also emphasized that direct participation in decision-making is valuable in itself as a means of building a sense of responsibility and self-confidence on the part of citizens.

Second, the citizen involvement has been pushed strongly by many traditional middle-class supporters of "good government," organized in neighborhood associations, environmental organizations, and consumer groups. From the perspective of these citizens, direct participation is valued as a means of counteracting and overcoming the privileged relationship between administrative agencies and the vested interests they are supposed to regulate. <sup>8/</sup>

Finally, direct citizen involvement has been emphasized and supported by blacks, poor people, and other disadvantaged groups, who viewed participation programs as a means of obtaining greater responsiveness to local needs and priorities from social service and community development bureaucracies. <sup>9/</sup>

The response to demands for greater control over administrative decision-making has taken two forms over the last thirty years: a) establishment of formal, procedural participation rights which can be utilized at the citizen's initiative and b) authorization of systematic citizen involvement programs which require the agency to seek out and respond to public priorities and preferences.

Procedural Participation Rights. In the postwar years, the primary forum for the advancement of procedural participation rights in administrative decision-making has been the federal government.

The landmark Federal Administrative Procedure Act of 1946 was the opening round in the expansion of the general participation rights and opportunities of the public.<sup>10/</sup> By requiring agencies to meet certain minimum standards of fairness and openness in their decision-making procedures, and by vesting citizens with the right to judicial relief in case of agency failure to comply, the Administrative Procedure Act broke new ground in enforcing public access and bureaucratic accountability. Minimal involvement opportunities, such as mandatory public hearings or review and comment on proposed regulations in the Federal Register, were first authorized by the Administrative Procedure Act and its subsequent amendments. Following the normal process of diffusion and emulation, most states and localities adopted administrative procedure acts of their own during the 1950s and 1960s.

In the 1960s, as federal programs again expanded rapidly and several new popular movements developed (e.g., civil rights, consumer, and environmental movements), attention again turned to the expansion and protection of general public participation rights in administrative decision making. The most significant acts were the Freedom of Information Act (1966) and the National Environmental Policy Act (1970), both of which created broad new information and accountability obligations for administrative agencies and made these rights judicially enforceable by the individual citizen.<sup>11/</sup> In the past few years, these acts have also spread rapidly at the state level and, to a lesser degree, at the local level.

The states have also pioneered in the expansion of general procedural rights and opportunities. Most prominently, it is at this level that "sunshine laws" or open-meeting acts originated. Most states now have laws requiring all meetings of state and local administrative agencies to be open to public attendance.<sup>12/</sup> The states' example has recently been followed by the federal government. A new statute requires that all federal agency meetings be open.<sup>13/</sup>

Supplementing the procedural participation rights established by these general statutes and ordinances, many specific laws incorporate additional safeguards of access and accountability. For example, in response to the demands of environmental groups, the federal pollution-control statutes-- the Clean Air Act of 1970 and the Federal Water Pollution Control Act Amendments of 1972--include liberalized standards for citizen access to judicial review of agency decisions.<sup>14/</sup> Any citizen may sue the agency itself by requesting a writ of mandamus or may override the prosecutorial discretion of the agency by seeking injunctive relief and civil penalties against a private violator of pollution standards. The pollution-control programs also incorporate special rules for public hearings and public access to agency documents going beyond the general standards set in the Administrative Procedure Act and related statutes.

As previously noted, these types of detailed procedural standards are also being written into recent state statutes on land use and other policy areas. However, while these types of minimum standards of accessibility and accountability are the essential core of citizen involvement in administrative decision-making, they are not necessarily sufficient to insure that an agency will become more responsive to popular preferences. In the timeless ways of the bureaucracy, minima have a tendency to become

maxima. Open meetings, notification procedures, public hearings, and other formal rights in and of themselves do not necessarily produce greater popular guidance and control. These procedural norms are passive; they may or may not be used positively to bring about a change in decision-making patterns. Recognizing these limitations, many groups have demanded more specific legislative mandates for citizen involvement which place an affirmative obligation on administrative agencies to solicit participation in particular policy decisions.

Systematic Involvement Programs. As in the establishment of procedural participation rights, the federal government has been the innovator and initiator in the authorization of systematic citizen involvement programs.

The Federal Housing Act of 1954 was the first major statute to incorporate a specific mandate for citizen participation. After five years of contentious and frustrating experience with federally financed urban redevelopment under the Housing Act of 1949, the revised statute sought to make administrative decision making more responsive to popular needs and desires by requiring a program of citizen participation in the planning and execution of projects. The new concept was incorporated in the statute as a response to critics who claimed that the urban redevelopment had resulted in a brutal, inhumane approach to social problems.<sup>15/</sup>

Congressional attention to the need for systematic citizen involvement programs accelerated greatly in the 1960s, as vast new social initiatives were authorized and citizen discontent and militance increased. The well-known mandate for "maximum feasible participation of the residents of the area and members of the group served" was incorporated in the Community Action Program legislation of 1964 as a significant expression of this concern. The desire to keep administrative discretion under control was also

evident in the mandate for "widespread participation" of affected citizens in the planning and execution of the Model Cities program (1966).

Because of the prominence of the Community Action and Model Cities programs in the arsenal of Great Society efforts to aid urban areas, the experiences with citizen participation under these mandates have been subjected to an enormous amount of publicity and analysis over the last decade.<sup>16/</sup> Despite the critical nature of much of this commentary, it was these two federal statutes, more than any other sources, that popularized and legitimized the concept of systematic citizen involvement programs, a concept subsequently incorporated in many other pieces of legislation. Indeed, the need for positive programs of citizen involvement in administrative decision making seems to have become a new legislative norm--not only at the federal level, but at the state and local levels as well.

As indicated in the preceding analysis, the emergence of this new norm is hardly sudden or surprising. Demands for positive citizen involvement programs represent an understandable and appropriate response on the part of a more knowledgeable and sophisticated public to the enormous increase in the scope of governmental intervention in citizens' lives and the extensive grants of discretion to administrative decision-makers who are not publicly accountable through the electoral process. The American public is far different from what it was prior to the Second World War. Higher levels of affluence and mass education have produced a populace that is unwilling to "leave it to the experts."

To some observers, the emergence of direct citizen involvement represents a challenge to the traditional representative institutions of our democracy.<sup>17/</sup> It is true that the authorization of citizen involvement programs constitutes an admission that legislatures and chief executives cannot, by themselves, effectively guide and oversee the conduct of administrative decision-making. Yet it also seems unrealistic to expect our representatives to exercise close and systematic control over the enormous range of

administrative agencies and activities in our society. Rather than the failure of traditional institutions, the gradual acceptance of the new norm of citizen involvement represents an adaptation of democratic practice to changed conditions, a recognition that the maintenance of a responsive government requires a division of labor between representative democracy and direct democracy.

In sum, then, the emphasis on citizen involvement in recent state land use statutes forms part of a more general movement toward providing affected citizens with a direct voice in administrative decision-making. This movement finds its roots in the great expansion of administrative discretion since the 1920s and the simultaneous growth in the affluence, education, and sophistication of the American people. Beyond this general background, however, mandates for citizen involvement in state land use programs also reflect two special factors: a) the extreme sensitivity of land use decisions and b) the distance and unfamiliarity of state government. The remainder of this chapter is devoted to a brief discussion of these factors.

#### Sensitivity of Land Use Governance

To a greater extent than most other areas of public policy, land use decisions exercise an immediate and pervasive impact upon the private lives of American citizens.

Of foremost importance is the effect of land use decisions upon private property. The drafting of a comprehensive plan, the approval of a zoning variance, the recordation of a subdivision plat typically involves thousands and often millions of dollars in increased or decreased property values and property taxes. These changes affect not only the owner/developer of the private land, but also the many citizens who reside or own property in the surrounding vicinity. The private economic stake of the owner/developer

has, of course, always been recognized in the American legal tradition. Under the "takings clause" of the federal and state constitutions, compensation for extreme diminution of property values caused by regulation is required.<sup>18/</sup>

However, the interests and values of surrounding residents and property-owners are not so explicitly recognized. The demand for special recognition and consideration of their concerns has been a powerful force behind the emphasis on citizen involvement found in many recent land use statutes and ordinances. Over the past twenty years, the scope of these private economic impacts deriving from land use decisions has greatly increased as homeownership rates have risen. With such a large proportion of citizen's capital assets tied up in the value of residential property, public tolerance of broad governmental discretion over the land market has understandably lessened.

Land use decisions are also sensitive because they exercise a powerful influence on many other aspects of a community's lifestyle--e.g., population composition, environmental quality, recreational opportunity, and fiscal stability.<sup>19/</sup> In the past ten to fifteen years, these community impacts have begun to receive as much attention as private economic impacts. This attention reflects two developments. First, there has been a marked upsurge in community commitment and organization in inner-city neighborhoods, stemming largely from federal programs of the 1950s and 1960s. Second, in response to the emergence of the environmental movement, there has been a shift in the "mood" of many suburban communities--away from accepting unfettered entrepreneurialism and rapid development, toward concern about the costs of growth and the need to preserve open space as a vital community resource. As a result, land use decisions now generate wider controversy than would derive from the private economic impacts alone.

The extreme sensitivity of land use governance has resulted in numerous instances of conflict and confrontation between citizens and government. Abetted by dramatic increases in the education and income levels of the American population and by extensive political experience gained in previous social movements, citizen organization display extraordinary levels of mobilization and sophistication on land use issues. Citizen groups have demonstrated repeatedly that, if not satisfied with the fairness and responsiveness of decisions, they can impede, obstruct, and delay the execution of policy for extended periods of time.

This is not to justify or defend the tactics of all citizen groups. Governmental decision makers should not be intimidated by the prospect of citizen opposition and cannot attempt to appease all groups that have the potential to obstruct and delay. However, in a policy arena involving both great sensitivity and a strong potential for public mobilization, it is understandable that legislators are sympathetic to demands for citizen involvement in the hope that delay and obstruction can be kept to a minimum.

#### The Distance of State Government

A second source of special concern about citizen involvement is the relative obscurity of state government in the eyes of many citizens. Of the three primary levels of government in the American federal system, state government is the least familiar, the least respected, and the least relevant to core concerns according to a recent nationwide survey of citizens sponsored <sup>20/</sup> by the Senate Subcommittee on Intergovernmental Relations. This unfamiliarity and distance, as noted in Chapter I, has generated much resistance to the enactment of innovative state statutes on land use and has created doubts about the political durability of existing state programs. <sup>21/</sup> Requiring an active effort



to solicit citizen involvement on the part of the responsible state agency is one of the logical means by which a legislature can address this potential obstacle to the effective implementation of policy.

The relative obscurity of state government is demonstrated by several findings from the recent nationwide survey. As illustrated by Table 2-1, the level of citizen familiarity with the issues and institutions of all three levels of government is quite low, but state government is significantly more unfamiliar than the others. Forty percent of the respondents said that their familiarity with the federal government was "excellent" or "very good," while 43% expressed similar sentiments about local government. However, the corresponding figure for state government is only 27%. There is thus a very substantial disparity between state government and federal/local government in the size of the interested and attentive constituency. This naturally translates into some hesitancy and concern on the part of state officials about the perceived legitimacy of expanding state functions into a new area.

Table 2-2 presents the respondent's assessment of the relevance of different levels of government to improving the quality of life. While the federal government is trusted to do something about the quality of life by 35% of the respondents, only 13% cast a vote of confidence in local government. However, state government is looked to by an even smaller percentage--9% of the respondents. This proportion contrasts even more vividly with the 26% of respondents who express most confidence in non-governmental organizations and the 17% falling in the None/Not Sure category. Such public skepticism about the effectiveness and relevance of state government hardly provides a positive platform for innovative environmental programs.

TABLE II-1

FAMILIARITY WITH DIFFERENT LEVELS OF GOVERNMENT

	<u>Excellent</u>	<u>Pretty Good</u>	<u>Only Fair</u>	<u>Poor</u>	<u>Total</u>
<u>Federal Government</u>	6%	34%	42%	18%	100%
<u>State Government</u>	3%	24%	49%	24%	100%
<u>Local Government</u>	8%	35%	38%	19%	100%

Survey Question: How would you rate yourself on how up to date you are on what is going on in the federal/state/local government?

Source: Harris Survey, reported in U.S. Senate, Committee on Government Operations, Confidence and Concern: Citizens View American Government, 93rd Congress, 1st Session, December 3, 1973, Part 2, pp. 451, 453, 455.

TABLE II-2

RELEVANCE OF GOVERNMENTAL LEVELS TO IMPROVING QUALITY OF LIFE

	<u>Proportion of Respondents</u>
Federal Government	35%
State Government	9%
Local Government	13%
Other (Citizen's Organizations, Non-governmental agencies, etc.)	26%
None/Not Sure	17%
Total	100%

Survey Question: Who would you trust most to do something about improving the quality of life?

Source: Harris Survey, reported in U.S. Senate, Committee on Government Operations, Confidence and Concern: Citizens View American Government, 93rd Congress, 1st Session, December 3, 1973, Part 2, p. 195.

Table 2-3 illustrates the point that public satisfaction with the responsiveness of all levels of government is not high, but that the federal government fares significantly better than either state government or local government. Forty-six percent of respondents who had made some specific contact with a federal agency indicated that they were "highly satisfied" with their experience, whereas only 39% expressed a similar feeling about experiences with state and local government. Twenty-four percent of respondents dealing with federal agencies were "not satisfied at all." At the state level, this proportion rises to 34% and at the local level to 35%.

It must be noted that these aggregate survey figures conceal significant differences among particular states and regions of the country in public perceptions about the relevance, familiarity, and responsiveness of state government. Yet the summary statistics do document the conclusion that the burden of proof is upon state government to justify and rationalize its involvement in novel areas of regulation. The states, despite their recent renaissance in leadership and organization, have yet to establish themselves in the public eye as dynamic, forceful, and effective jurisdictions. Indeed, it is only through the successful implementation of innovative programs such as land use control that state government will be able to build reserves of public understanding and confidence.

In sum, state governments are currently operating in an "institution-building" phase of expansion and development. During this period, a special emphasis on citizen involvement is necessary and appropriate as a means of overcoming public unfamiliarity and skepticism about the assumption of new roles by state government.

TABLE II-3

SATISFACTION WITH RESPONSIVENESS OF DIFFERENT LEVELS OF GOVERNMENT

	<u>Highly</u> <u>Satisfied</u>	<u>Only Somewhat</u> <u>Satisfied</u>	<u>Not Satis-</u> <u>fied At</u> <u>All</u>	<u>Not</u> <u>Sure</u>	<u>Total</u>
<u>Federal</u> <u>Government</u>	46%	29%	24%	1%	100%
<u>State</u> <u>Government</u>	39%	26%	34%	1%	100%
<u>Local</u> <u>Government</u>	39%	26%	35%	-	100%

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Survey Question: How satisfied were you with your experience with the Federal/State/Local Government? (Question was directed to respondents who had some specific contact with a government agency at each level.)

Source: Harris Survey, reported in U.S. Senate, Committee on Government Operations, Confidence and Concern: Citizens View American Government, 93rd Congress, 1st Session, December 3, 1973, Part 2, pp. 303, 313, 321.

NOTES - CHAPTER II

1. James Bryce, The American Commonwealth (1888), quoted in Theodore Lowi, The End of Liberalism (New York: W. W. Norton and Company, 1969), pp. 128-129.
2. Classics of public administration theory emphasizing scientific management and neutral competence include Woodrow Wilson, "The Study of Administration," 2 Political Science Quarterly 197 (1887); Frank Goodnow, Politics and Administration: A Study in Government (New York: Macmillan, 1900); Luther Gulick and S. Urwick, Papers on the Science of Administration (New York: Columbia University, Institute of Public Administration, 1937); James Landis, The Administrative Process (New Haven: Yale University Press, 1937); Leonard White, Introduction to the Study of Public Administration (New York: Macmillan, 1939).
3. Landis, op. cit., p. 46.
4. Standard State Zoning Enabling Act, Article 2. The SSZEA is reprinted in E. F. Roberts, Land Use Planning: Cases and Materials (New York: Matthew Bender, 1971), pp. 3-10. The discretion of local zoning bodies is, of course, supposed to be exercised "in accordance with a comprehensive plan." Standard State Zoning Enabling Act, Article 3. However, this constraint upon administrative discretion has never assumed major significance in most states. Edward Sullivan and Lawrence Kressel, "Twenty Years After-Renewed Significance of the Comprehensive Plan Requirement," 9 Urban Law Annual 33 (1975); Daniel Mandelker, "The Role of the Local Comprehensive Plan in Land Use Regulation," 74 Michigan Law Review 900 (1976).

The only substantive check upon the broad discretion of zoning bodies has been the state courts' willingness to require compensation in cases of arbitrary "taking" of property through regulation. See Frank Michelman, "Property, Utility, and Fairness: Ethical Foundations of Just compensation Law," 80 Harvard Law Review 1165 (1967).

5. Early critics of broad administrative discretion include E. Pendleton Herring, Public Administration and the Public Interest (New York: McGraw-Hill, 1936); Avery Leiserson, Administrative Regulation (Chicago: University of Chicago Press, 1942); Herman Finer, "Administrative Responsibility in Democratic Government," Public Administration Review 335 (1941).

6. Classics of the "clientele capture" genre include Marver Bernstein, Regulating Business by Independent Commission (Princeton: Princeton University Press, 1955); Samuel Huntington, "The Marasmus of the ICC," 61 Yale Law Journal 467 (1952); Grant McConnell, Private Power and American Democracy (New York: Knopf, 1966).

For a contemporary review and critique of the cooptation literature, see Paul Sabatier, "Social Movements and Regulatory Agencies: Toward a More Adequate and Less Pessimistic Theory of 'Clientele Capture,'" 6 Policy Sciences 301 (1975).

7. There are many different strains of scholarly thought supporting increased citizen participation and bureaucratic responsiveness to public preferences.

Among the writings on "representative bureaucracy," major sources include Arthur Larson, "Representative Bureaucracy and Administrative Responsibility," 7 Midwest Review of Public Administration 79 (1973); Samuel Krislov, Representative Bureaucracy (Englewood Cliffs: Prentice Hall, 1974); Frederick C. Mosher, Democracy and the Public Service (New York: Oxford University Press, 1968).

Among the "citizenship theorists" who emphasize the personal and attitudinal benefits of direct citizen involvement, see Robert Praeger, The Eclipse of Citizenship: Power and Participation in Contemporary Politics (New York: Holt, 1968); Arnold Kaufman, "Human Nature and Participatory Democracy" in William Connolly (editor), The Bias of Pluralism (New York: Atherton, 1969). Citizenship theory, of course, figured prominently in the origin of most of the citizen participation programs of the 1960s, which were aimed at "alienated" blacks and poor people. See generally Richard Boone, "Reflections on Citizen Participation and the Economic Opportunity Act," 32 Public Administration Review 444 (1972); Melvin Mogulof, Citizen Participation: A Review and Commentary on Federal Practices and Programs (Washington, D. C.: The Urban Institute, 1970).

The "countervailing power" school emphasizes the need for citizen militance in coping with arrogant and distance bureaucracies. See, for example, Richard Leone, "Public Interest Advocacy and the Regulatory Process," 40 The Annals 46 (1972); Joseph Sax, Defending the Environment: A Strategy for Citizen Action (New York: Knopf, 1971); Paul Davidoff, "Advocacy and Pluralism in Planning," 31 American Institute of Planners Journal 331 (1965).

8. See Mark Nadel, The Politics of Consumer Protection (New York: Babbs-Merrill, 1974); Walter Rosenbaum, The Politics of Environmental Concern (New York: Praeger, 1973); R. Robert Lonowes and Don T. Allensworth, The Politics of Land Use (New York: Praeger, 1973).
9. On the origins of demands for decentralization and neighborhood power among blacks and others disadvantaged groups, see Alan Atshuler, Community Control (New York: Pegasus, 1970); Milton Kotler, Neighborhood Government (Indianapolis: Bobbs-Merrill, 1969); Hans Spiegel and Stephen Mittenenthal, Neighborhood Power and Control: Implications for Urban Planning (New York: Columbia University, Institute for Urban Environment, 1968).
10. On the impact of the Administrative Procedure Act, see Kenneth Davis, Administrative Law Text (St. Paul: West, (1972); Richard Stewart, "The Reformation of American Administrative Law," 88 Harvard Law Review 1669 (1975); Louis Jaffe, Judicial Control of Administrative Action (Boston: Little Brown, 1965).
11. See generally Stewart, op. cit., pp. 1748-1756; Ernest Gellhorn, "Public Participation in Administrative Proceedings" 81 Yale Law Journal 359 (1972).
12. See Richard Henry (editor), A Summary of Freedom of Information and Privacy Laws of the 50 States (Washington, D. C.: Access Reports, 1976); Open Government in the States (Washington, D. C.: Common Cause, 1976).
13. P.L. 94-409 (1976), "Government in the Sunshine Act."
14. For a general overview on citizen access and standing under the pollution control statutes, see Symposium on Public Participation in Resource Decision-Making, 16 Natural Resources Journal 1-236 (1976).
15. James Q. Wilson, "Planning and Politics: Citizen Participation in Urban Renewal," 29 Journal of the American Institute of Planners, 242 (1963); J. Clarence Davies III, Neighborhood Groups and Urban Renewal (New York: Columbia University Press, 1965).

16. The voluminous commentary on citizen participation in the Community Action and Model Cities programs is reviewed, cataloged, and analyzed in John Strange, "Citizen Participation in Community Action and Model Cities Programs," 32 Public Administration Review 655 (1972). See also "Symposium on Citizen Action in Model Cities, CAP Programs," 32 Public Administration Review 377-470 (1972); Mogulof, op. cit.; E. S. Cahn and B. Passett, Citizen Participation: A Case Book in Democracy (New York: Praeger, 1969).
17. There are many defenders of the efficacy of "ordinary politics" conducted through representative institutions. They typically characterize direct citizen involvement as a threat to democratic governments. See, for example, James Riedel, "Citizen Participation: Myths and Realities," 32 Public Administration Review 211 (1972); Herbert Kaufman, "Administrative Decentralization and Political Power," 29 Public Administration Review 3 (1969). L. E. Schaller, "Is the Citizen Advisory Committee a Threat to Representative Government," 24 Public Administration Review 175 (1964). See also Daniel P. Moynihan, Maximum Feasible Misunderstanding: (New York: The Free Press, (1969).
18. Joseph Sax, "Taking, Private Property, and Public Rights," 81 Yale Law Journal 149 (1971); Michelman, loc. cit. For a commentary on the status of the taking doctrine under the new ALI Code, see Peter Brown, The American Law Institute Model Land Development Code, The Taking Issue, and Private Property Rights (Washington, D. C.: The Urban Institute, 1975).
19. The broad community impacts of land development are detailed in a series of reports published by the Urban Institute in 1976: Thomas Muller, Fiscal Impacts of Land Development; Dale Keyes, Land Development and the Natural Environment: Estimating Impacts; Kathleen Christensen, Social Impacts of Land Development; Thomas Muller, Economic Impacts of Land Development: Employment, Housing and Property Values; Philip Schaenman, Using an Impact Measurement System to Evaluate Land Development.
20. U.S. Senate, Committee on Government Operations, Confidence and Concern: Citizen's View American Government, 93rd Congress, 1st Session, December 3, 1973.
21. For example, a critical areas statute passed by the Utah legislature in 1974 was defeated by state-wide referendum. In Oregon, the land use program established by S. B. 100 was challenged by an initiative vote in November 1976. The program survived. In Vermont, citizen resistance resulted in the legislative defeat of a state land use plan authorized by previous legislation. See Nelson Rosenbaum, Land Use and the Legislatures: The Politics of State Innovation (Washington, D. C.: The Urban Institute, 1976); Robert Healy, Land Use and the States (Baltimore: Johns Hopkins University Press for RFF, 1975).



PART B

EVALUATION METHODOLOGY

### III. CITIZEN INVOLVEMENT PROGRAMS: A FRAMEWORK OF EVALUATION

Citizen involvement in administrative decision-making embraces the same fundamental goals as democratic politics in general: to insure that public policies are reasonably responsive to public needs and priorities and to prevent government from overstepping the bounds of its constitutionally-limited authority. Evaluating the effectiveness of citizen involvement programs thus addresses the viability of democracy itself under conditions of growing bureaucratic power and discretion. Can an attentive and active citizenry mobilize itself for continuing involvement in planning and regulation? Are the necessary tools for guidance of administrative authority provided to affected citizens? Can involvement programs balance and counteract the "normal" domination of administrative decision-making by narrow, intense, well-organized constituencies?

Underlying this approach to evaluation is the elusive but powerful notion of the "public interest"--i.e. that view of democratic practice which holds that decisions should be based upon careful consideration and equitable weighting of the interests and preferences of all affected citizens rather than only those who are most effectively organized on a particular issue.<sup>1/</sup> Thus, the exercise of citizen influence is not automatically equated with an effective citizen involvement program. For example, an involvement program which allows a small homeowner's group to intimidate public officials from constructing low-income housing in an eligible neighborhood is not necessarily effective from our perspective. Nor do we equate program effectiveness with methodological proficiency. The procedures

of a citizen involvement program may be highly accessible to affected citizens, but if the actual decisions remain dominated by ideological preconceptions or special-interest pleadings, the program can be termed effective only in a limited sense. In short, we approach the evaluation of citizen involvement from a very specific viewpoint. Democratic practice consists of the search for the broader public interest, not simply the mediation and reconciliation of narrow, highly-organized interests. Citizen involvement programs are effective to the extent that they facilitate the identification of this public interest and stimulate its protection in administrative decision-making.

Translating this general approach into a systematic framework of evaluation involves examining the effectiveness of citizen involvement programs at three different levels: 1) the procedural level, 2) the policy level, and 3) the political system level (See Figure 3-1). Underlying this framework of evaluation is a theory or model which holds that the three facets of program effectiveness are causally related to each other--i.e. open, accessible citizen involvement procedures stimulate fair and responsive decisions which in turn produce greater trust in democratic government and personal political confidence (See Figure 3-2). However, this relationship is by no means axiomatic. There are a variety of intervening variables which may cause a disjunction between the effectiveness of citizen involvement programs at different levels. Thus, it is necessary to evaluate program effectiveness at each level independently.

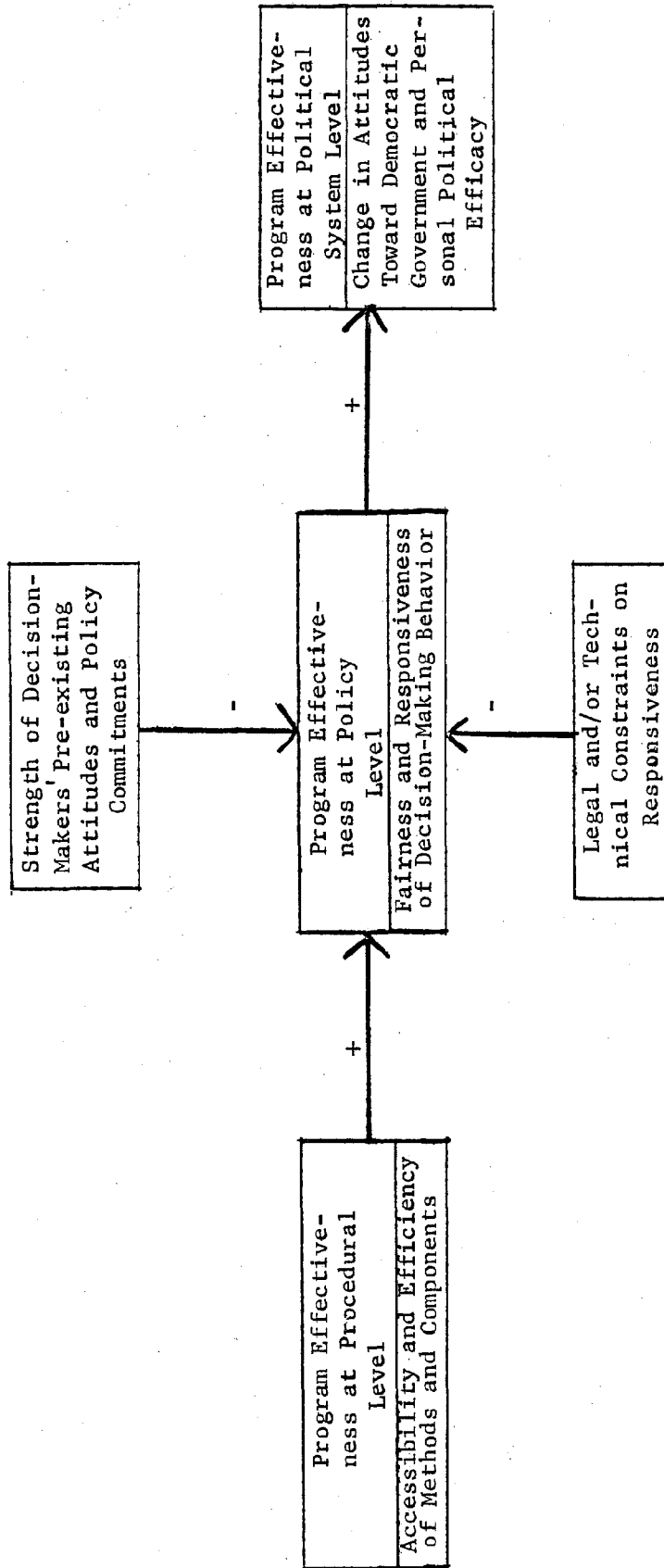
The remainder of this chapter specifies in more detail the specific criteria of program effectiveness at each level of evaluation and the available research strategies for obtaining operational measures of effectiveness.

FIGURE III-1

FRAMEWORK OF EVALUATION FOR CITIZEN INVOLVEMENT PROGRAMS

LEVEL OF EVALUATION	FOCUS OF ANALYSIS	CRITERIA OF EFFECTIVENESS	EFFECTIVENESS INDICATORS
PROCEDURAL LEVEL	1. Individual Methods	1. Accessibility	1. Subjective Reactions of Citizens and Decision-Makers Derived from Surveys.
	2. Program Components	2. Efficiency	2. Statistics on Level of Activity, Numbers of Participants, Expenditures, etc.
	3. Total Program		3. Procedural Rules and Regulations.
POLICY LEVEL	1. Characteristics of Officials' Decision-Making Behavior	1. Fairness 2. Responsiveness	1. Subjective Perceptions of Citizens and Decision-Makers Derived from Surveys/Interviews.
			2. Objective Evidence on Decision-Making Behavior Derived from Court Records, Meeting Transcripts, etc.
			3. Scores on Concurrence or Correspondence Between Official Acts and Preferences of Affected Citizens.
POLITICAL SYSTEM LEVEL	1. Change in Political Attitudes and Behavior of Citizen Participants	1. Trust in Democratic Government 2. Confidence in Political Efficacy	1. Comparative Attitudinal Scores Derived from Before-After or Longitudinal Surveys of Citizen Participants.
			2. Increases in Voluntary Association Membership and Activity.

FIGURE III-2  
THEORY OF EVALUATION



### The Procedural Level

This level of evaluation focuses upon the technical quality of the specific procedures and processes which are used to involve citizens in administrative decision-making. As specified at length in another publication, a citizen involvement program logically consists of three sequential components.<sup>2/</sup> These are a) public preparation, 2) citizen participation, and 3) governmental accountability. Each of these components fulfills a necessary function in encouraging a closer correspondence between public policy and public preferences. Whether or not citizen involvement is conceived or designed on such a programmatic basis, the procedures utilized can still be evaluated in terms of how well they execute these necessary functions.

Assessment of the technical effectiveness of citizen involvement procedures may be carried out at three different plateaus of specificity, depending on the purposes of the evaluation:

- A) Methods--At the most detailed level, one may evaluate the technical quality of a specific method, such as a public opinion survey which forms part of the larger citizen participation component of an involvement program. Or, one may wish to compare the technical quality of similar methods--i.e. a public opinion survey vis. a vis. a public forum carried out as part of the same component.
- B) Components--In some evaluations, interest may focus upon the technical quality of entire components. This requires an assessment of the balance of strengths and weaknesses in a combination of methods. For example, while public opinion surveys, public forums and citizen advisory committees may each have serious technical weaknesses as individual methods, they may on balance compensate for each other and create an effective citizen participation component as a whole. On this level, one may also wish to compare the effectiveness of varied combinations of methods utilized in different involvement programs.

- C. Programs--At the most general level of assessment, one may wish to develop a general judgement about the technical quality of the total program. This, of course, presumes a fairly detailed assessment of each of three major components of a program.

Two criteria are of primary importance in gauging the technical quality of citizen involvement procedures: 1) the accessibility of involvement opportunities to affected citizens, 2) the efficiency of information exchange between citizens and decision-makers. These criteria are not selected randomly, but derive from the theoretical approach to citizen involvement specified above. Accessibility and efficiency are the necessary prerequisites of program effectiveness at the policy and political system levels. Unless decision makers are exposed to the full array of interests among the affected public and enjoy accurate, understandable information about the content and distribution of these preferences, the groundwork for responding fairly and sensitively to public needs and priorities is not established. Accessibility and efficiency are not sufficient conditions to be sure, but a citizen involvement program is unlikely to succeed substantively without these attributes.

Accessibility. This refers to the ease with which affected citizens may involve themselves if they choose to do so. A method, a component, a program is accessible if the citizen can utilize it conveniently--without extraordinary expenditures of time, money, and travel and without meeting artificial barriers of standing and sophistication.

The evaluation of accessibility depends, of course, upon some estimate of the appropriate size and scope of the affected public. There are two options in reaching such an estimate. First, an evaluation may be based upon the administrative agency's own view of the affected public, which will likely be evident in the design of the involvement program. The second

alternative is to substitute for the agency's judgment an independent estimate of who should be involved. This may be based upon empirical research, the legislature's mandate, or any other reasonable ground.<sup>3/</sup> In either case, the evaluation should be quite explicit about the conception of the affected public utilized in measuring the accessibility of involvement processes.

Data resources for measuring the accessibility of citizen involvement programs include the subjective reactions of program participants to the procedures utilized as well as objective data concerning numbers of activities, expenditure levels, rules of procedure, and so forth. The subjective reactions of program participants may be collected systematically through surveys and interviews or more informally through observations in the course of specific involvement opportunities such as meetings, forums, educational films, etc. These sources complement each other--surveys provide an overview of the entire spectrum of methods utilized in the program and observations provide a detailed feel for participant reaction to specific opportunities.

Supplementing these subjective sources of data are statistics on the actual levels of activity and expenditure in the program. Of course, by themselves these statistics indicate nothing about accessibility. The fact that 200 individuals show up for a public meeting is meaningless without further information about the size of the base population of affected citizens, the proximity of the meeting site to population concentrations, and so forth. However, in conjunction with such background data and with the benefit of survey findings and field observations, these objective statistics can assist the evaluator to interpret the accessibility of citizen involvement processes from a more concrete and realistic perspective.



Efficiency. However accessible the processes of a citizen involvement program, the basis for program effectiveness at the policy level is not established unless information is exchanged efficiently between citizens and decision-makers. A citizen involvement program is largely an exchange of information. Decision-makers communicate information about how government is set up to handle different issues, about the economic, social, and environmental stakes involved in these issues, about the specific policy options available for the resolution of issues, and about the rationale for final policy decisions. Citizens inform decision-makers about their priorities among issues, about their preferences among policy options, and about their reasons for dissatisfaction, if any, with final policy decisions.

Efficiency in exchanging information is crucial for two reasons. First, administrative agencies are limited in the amount of staff and money they can devote to citizen involvement programs. Lacking efficient procedures, an agency may exhaust its resources without insuring that necessary information is successfully exchanged. Second, there are limits to the time, patience, and attention-span of citizens and official decision-makers. Procedures that produce dull, redundant, and inefficient information exchange can be expected to have little impact upon policy decisions--i.e. the typical public hearing.

There is, of course, some inevitable tradeoff between accessibility and efficiency. For example, a well-designed representative panel of citizens may provide just as accurate and comprehensive information about the distribution of policy preferences among the affected public as a large-scale survey or a number of public forums and meetings. Yet despite the higher cost and time, the survey or forums may be utilized as a means of promoting a sense of participation among a

larger group of affected citizens. Similarly, a civil suit by a citizen may be an extremely inefficient way of obtaining information about what troubles him, but given our legal tradition, broadening the accessibility of the courts may assume a higher priority than promoting efficiency on the procedural level.

This is not to say that efficiency must always be sacrificed to enhance accessibility. For example, a technique that promotes accessibility such as a mass mailing of decision documents to registered property-owners in an area may also be highly efficient compared to alternative public preparation methods. However, recognizing the inevitability of some conflict, the essential challenge at the procedural level is to maintain a reasonable balance between accessibility and efficiency so that the basic objectives of citizen involvement may be promoted.

In operational terms, efficiency refers to the quality of information provided by a method, a component, or a program in relation to its cost. By quality, we mean the clarity, the accuracy, the comprehensibility, the non-redundancy, the usefulness of the information provided.

The assessment of quality inevitably rests upon the subjective perceptions of citizens and decision-makers. Reactions of a representative sample of citizen participants and officials to specific methods, overall components, or the program as a whole may most easily be obtained through a questionnaire survey or personal interviews. Examples of the types of questions that were utilized in the assessment of state citizen involvement programs are provided in Appendix A.

Estimating the cost of specific methods, components, and programs is often more difficult than assessing the quality of the information exchange. Staff time, overhead, office supplies, and other costs that are difficult to measure must be added to the direct expenditures incurred--i.e. postage, printing, rentals, etc. Easiest to estimate are the costs of special activities such as a survey that is contracted out or a court case in which legal fees are assessed. Hardest to estimate are the costs of internal continuous activities such as a citizen "hotline" or preparation for public hearings. Whatever the difficulty of obtaining cost data, some estimate of expense should be made since efficiency is such a central aspect of program effectiveness.

#### The Policy Level

The central objective of a citizen involvement program is to increase the fairness and responsiveness of administrative decisions, thereby producing a close correspondence between public policy and public preferences. At the policy level of evaluation, our interest thus focuses upon the decision-making behavior of administrative officials. Do their deliberations incorporate adequate consideration of the full range of interests and viewpoints articulated in the citizen involvement program? Do the decisions they produce indicate an understanding of and sensitivity to the direction of majority or plurality preferences among the affected public?

Fairness. One of the most fundamental principles of democratic government is that decision-making should incorporate equitable consideration of all points of view. Citizens have a right to expect that their interests and preferences will be considered fairly and sensitively and that the grounds for acceptance or rejection of a position will be explicitly indicated.

Fairness is, of course, particularly important in administrative decision-making, since the potential for arbitrary and capricious behavior in the implementation of broad discretionary mandates is very high and because aggrieved parties lack the means for gaining redress through the electoral process.<sup>4/</sup>

In recent times, the judiciary has been quite active in striking down the arbitrary and capricious exercise of discretion by administrative officials. Indeed, the current extension of appeal rights to "ordinary" citizens through administrative procedure acts, environmental policy acts, and so forth has resulted in a great expansion of judicial action aimed at enforcing fairness in agency deliberations. This is certainly an important aspect of the effectiveness of citizen involvement at the policy level, but the more fundamental criterion is whether citizen involvement programs stimulate more sensitive and equitable consideration of alternatives without the imperative of judicial action. If fair decision-making can only be produced by external requirements, then a citizen involvement program must be considered only marginally effective on the policy level.

Evaluation of program effectiveness may be based on either subjective or objective indicators of fairness. The most important type of subjective data is the citizen's own perception of fairness. A survey of a representative sample of citizen participants provides the easiest and most accurate means of obtaining the affected public's view of agency deliberations. These perceptions are, according to our theory of evaluation, a crucial variable in influencing program effectiveness at the political system level. We would

expect few citizens to increase their trust in democratic government and confidence in their personal political efficacy unless they are convinced that their viewpoints were equitably considered in the decision-making process. However, the subjective perceptions of citizen participants may not be an entirely accurate and satisfactory measure of program effectiveness at the policy level since few citizens may have actually followed the deliberations of the decision-makers in detail. Thus, it is essential to supplement citizen estimates with other indicators.

One additional source of subjective data is interviews with the decision-makers themselves. Inquiries about the relative consideration given to different viewpoints may be useful if interviews are conducted soon after the relevant decision is made.<sup>5/</sup> After six months, however, memories are likely to be so hazy that these subjective estimates have little value. This information is also likely to be flawed by self-serving and misleading comments by decision-makers.

Perhaps the best source of additional data is direct documentation of decision-maker's deliberations. With the advent of open meeting laws and the prevalence of legal challenges to agency actions, transcripts of decision-making conferences are frequently available. These can be examined, as a judge might, for direct evidence of fairness in considering alternative interests and preferences. Such evidence helps to ground the subjective estimates in concrete detail.

Responsiveness. It is the nature of our government that administrative agencies are structured to respond only to the most intense and well-organized interest groupings. The agencies deem themselves responsive to the public if the organized interests are satisfied

with the outcome. Normally there is little concern about the broader range of affected citizens who are unorganized and who lack the knowledge and resources to press strongly for protection of their interests.

In theory at least, an accessible and efficient citizen involvement program will counteract this traditional pattern of decision-making by bringing a broader array of citizens into the process and by providing accurate and useful information to decision-makers about what they need and want. Whether or not this theory of citizen involvement works as postulated is the major issue in any assessment of program effectiveness at the policy level.

There are at least two sets of constraints which may diminish responsiveness to the broad public interest even if a citizen involvement-program is effective in clarifying preferences and needs.

First, decision-makers may have such strong views and pre-existing commitments on the issues involved that they choose to disregard citizen viewpoints even if known. Encouraging this tendency is a conception of democracy often found among administrative officials that downplays the potential contribution of "ordinary" citizens and relies heavily upon the supposed expertise and competence of technical staff and organized interest groups.<sup>6/</sup> Of course, as noted above, citizens are increasingly armed with rights to judicial review, referenda and other devices by which a greater degree of responsiveness may be enforced if the original decision is found lacking. However, most citizens enjoy neither the time nor the resources to utilize these methods of enforcing accountability on more than a sporadic basis, so the effectiveness of a citizen involvement program on the policy level still depends heavily upon the volition of decision-makers.

Second, depending on the nature of the decision involved, there may be legal and technical constraints upon the ability of administrative officials to respond to the thrust of opinion among the affected public. This is often not clearly explained by officials nor well understood by citizen participants, leading to considerable confusion and false expectations.

In the most general and ideal-typical terms, administrative decision-making can be divided into three categories or types.<sup>7/</sup> The first type may be termed policy planning. Much liberal legislation does little more than lay out the general outlines of a problem and designate an administrative agency as the implementation authority. Administrative decision-makers, with whatever guidance is available from the statute, thus frequently enjoy broad discretion in setting the basic directions of policy. In this context, there is relatively little constraint upon the ability of decision-makers to respond to public preferences, assuming that such preferences are not grossly antithetical to the central purposes of the statute.

A second type of administrative decision-making involves the preparation of rules, regulations, and guidelines--i.e. the translation of general policies into specific, legally-binding requirements. At this stage, depending on how much guidance is provided by the statute or administrative policy plans, discretion may already be considerably lessened. The superior status of the statute or administratively-adopted plan often forces the process of rule-making into narrow limits, thus constraining the potential responsiveness of decision-makers to the members of the affected public who involve themselves at this stage. However, the extent of constraint should not be overstated since the typical

rule-making process still provides considerable freedom of interpretation for administrative officials. But any evaluation must acknowledge the possibility of a conflict at this stage between public preferences and earlier policy commitments.

The third ideal-typical category of administrative decision-making is policy execution--the application of rules, regulations, and guidelines to specific cases. Such cases may involve the regulation of persons or property, the allocation of funds, the provision of services, or other governmental functions. In theory at least, official discretion is severely constrained at this stage by prior policy commitments and by the binding legal status of administrative regulations. Thus, should the thrust of opinion among the affected public be contrary to prior commitments and established regulations, the potential for responsiveness may be quite low. Of course, the ambiguity of policy and the loopholes of administrative regulations sometimes provide considerable room for creativity in decision-making. For example, the field of land use regulation has long been characterized by a very loose and uncertain relationship between plans and zoning decisions, although in recent years, the courts have been insisting on a closer and more binding linkage<sup>8/</sup>. But the essential point is that while decision-makers may be able to undertake some departures, it is unrealistic to expect much responsiveness to public preferences at this stage should those preferences be contrary to existing commitments.

How can responsiveness to public priorities and preferences be measured? As in the assessment of fairness, citizens' subjective perceptions constitute the primary data base since these perceptions are the key to program effectiveness at the political system level. Such perceptions are most easily and accurately determined through a questionnaire survey or systematic interviewing of a representative sample of citizen participants. It should be emphasized, however,



that this data is potentially flawed by the fact that many respondents may have little knowledge or understanding of the general thrust of public opinion on the issues involved. Citizens can testify accurately about their own preferences on the issues and whether government has satisfied them, but they may have great difficulty in making a judgement on the crucial question of whether citizen involvement has stimulated responsiveness to the broad public interest.

Interviews with decision-makers provide another subjective means of probing the relationship between citizen involvement procedures and responsiveness. However, as in the assessment of fairness, recollections of the motivation for decisions may be quite misleading and self-serving. Thus, this data source must also be treated with some skepticism.

As an alternative to these subjective estimates of responsiveness, some researchers have experimented with a more direct and objective measure of "concurrence" or "correspondence" between public opinion and public policy, usually expressed in terms of the distance between the mean, median, or modal policy preference of the public and the policy alternative selected by the responsible governmental <sup>9/</sup>body. The utilization of this procedure rests upon a number of givens: 1) that policy alternatives can be arrayed on some type of ordinal or interval scale, 2) that the affected public can be accurately and completely identified for purposes of drawing a representative survey sample, 3) that members of the affected public who have not involved themselves in some way in the decision-making process have substantive opinions on the issue or issues involved, 4) that the discretion of governmental decision-makers to respond to public preferences is not severely constrained.

Given the narrowness of these conditions, the measurement of concurrence or correspondence has only been utilized in a small number of cases, typically involving legislative decision-making on general budget allocations. <sup>10/</sup> The potential application of this technique to administrative decision-making

runs into a number of problems, not the least of which is the frequent indeterminacy in the size and scope of the affected public. Nevertheless, in situations where the technique might be appropriate, an objective measure of this type would be a valuable adjunct to the more subjective estimates of responsiveness.

#### The Political System Level

The viability of a democratic political system ultimately rests upon a certain fundamental level of confidence in the efficacy of political activity and trust in the integrity and good faith of governmental institutions. Without such confidence and trust, a cycle of decay saps the vitality of democratic politics. Levels of political participation decline, government becomes more and more isolated from the citizenry, the civility of the decision-making process deteriorates, and coercion increasingly replaces voluntary compliance as the basis of social order.<sup>11/</sup>

One of the main reasons for the proliferation of legislative mandates requiring citizen involvement is the hope that such programs might help to restore and buttress the sense of trust and confidence that was so conspicuously lacking among many segments of the population in the late 1960s and early 1970s. For example, in the Community Action and Model Cities programs of the 1960s, it was anticipated that participation in a citizen involvement program would tend to build trust and reduce alienation on the part of low-income citizens. However, the relationship turned out not to be so simple. Participation without power, involvement without influence had little impact on basic attitudes toward self and government and created much anger and frustration instead.<sup>12/</sup>

We share the view that increasing trust and confidence is an important objective of citizen involvement programs, but we do not believe that much change in orientations will be produced by participation per se. Rather, our framework of evaluation is based upon the proposition that attitude change is most likely to derive from the substantive effectiveness of the

program in shaping policy decisions. Satisfaction with the fairness and responsiveness of decision-making should be a powerful stimulus to positive attitudes toward the general political system. However, as in the relationship between the procedural and policy levels of program effectiveness, there are a number of factors which may affect the strength of the linkage.

First, the proposed hypothesis rests upon the assumption that trust and confidence are relatively mutable attitudes--that is, they may change rapidly in response to events. However, there is some question about how much change in fundamental attitudes like trust in government and personal political efficacy can be expected in response to discrete events like participation in a citizen involvement program. Empirical studies of these attitudes suggest that they are most strongly affected by the content of early socialization experiences, by the place of the individual in the lifecycle, by the socio-economic status of the individual's occupation and by the general national "mood" transmitted through the mass media.<sup>13/</sup>

Second, the proposed relationship also assumes that these attitudes will be affected by the individual's perception of the general fairness and responsiveness of the decision-making process rather than by his personal satisfaction with decisions. Previous research casts some doubt upon this assumption. Several studies indicate a sharp distinction between "public-regarding" individuals who base most of their political attitudes and actions on estimates of the general public good and "private-regarding" individuals who are much more concerned with the personal and parochial consequences of political life.<sup>14/</sup> Thus, it may be unrealistic to expect much increase in trust and confidence among "private-regarding" individuals in response to perceptions of general

fairness and responsiveness, unless the decisions involved also happen to coincide with the individual's personal policy preferences.

In short, while increasing positive attitudes toward the democratic political system is an important objective of citizen involvement, past research does not instill confidence that even a highly effective program on the policy level will have a great impact on such general orientations. Nevertheless, the proposed hypothesis is credible and testable and evaluation research should incorporate an analysis of this relationship if possible. Let us briefly consider the specific criteria of effectiveness and strategies of measurement.

Trust in Government. Trust in government refers to the conviction that the institutions and personnel of government provide an honest, open, and impartial forum for the resolution of important policy issues. This conviction is a crucial underpinning of political interest and activity. If one is not convinced that government is fair and unbiased, why bother with efforts to influence policy? The cynicism and alienation from government which has been documented among numerous segments of the American public represents a significant barrier to more widespread participation.<sup>15/</sup>

Trust in government may be measured by any of a number of standard attitudinal scales which have been in use for many years.<sup>16/</sup> The referent of these attitudinal scales is most often democratic government in general, but depending on the purposes of the study, these measures may be modified to measure trust in a particular level of government (federal, state, regional, local) or in the institutions and personnel of a specific jurisdiction.

Making inferences about the effect of a citizen involvement program on a disposition like trust in government requires a much more rigorous approach to research measurement than is necessary at either the procedural or policy levels of evaluation. At the political system level, we are not simply interested in

the citizen's subjective perception of the program. Instead, the challenge is to determine the independent impact of the program on basic attitudes in a context that is confounded by many other causative influences.<sup>17/</sup>

It is clear that an ex post facto, "after-only" measurement of trust in government indicates little about the impact of the program, since the objective of evaluation is to determine change in trust over the course of time. At minimum then, a measurement of trust before and after the involvement program is essential to valid inference. Even this design, however, leaves itself open to conflicting interpretations of data since it does not "control" for variables such as change in the national mood transmitted through the media. Thus, an adequate research design must also measure changes in trust over time among a control group of similar individuals, thereby isolating influences in the general environment.

Beyond these essential elements of adequate measurement, evaluation research may attain additional rigor by utilizing the "quasi-experimental" designs<sup>18/</sup> advocated by Campbell and Stanley. For example, in the time-series design, measurements of trust would be taken at periodic intervals before the program begins and after the program ends for both the program participants and the control group. It would thus be possible to determine whether the measurements immediately before and after the program are part of a longer term trend or whether they truly mark a decisive change in attitudes stimulated by the program.

Obviously, these more involved designs require substantial resources and elaborate preparation. In many cases, neither the necessary funds nor the time may be available for purposes of evaluation. However, we have emphasized the need for rigorous research design at some length to indicate that an evaluation should be done well if it is to be done at all. Sloppy research and misleading inferences may do more harm than good in raising false expectations about the impact of citizen involvement.<sup>19/</sup>

Confidence in Politics. This refers to the individual's sense of personal confidence in his ability to operate effectively in the political sphere. Even if an individual has a high level of trust in the honesty and fairness in government, he may still hesitate to participate due to a feeling of inferiority about his own competence and efficacy in politics.<sup>20/</sup> We utilize the term politics here to refer not only to partisan political activity, but to all efforts aimed at influencing the actions of government.

Confidence in politics may also be measured by a number of standard attitudinal scales which have been utilized in survey research for many years. However, some confusion exists about the precise content of the standard scales, so caution is advisable in selecting an instrument for measurement purposes.<sup>21/</sup>

The same attention to adequate research design is necessary in measuring change in political self-confidence as in the assessment of trust in government. Indeed, the evaluation of change in confidence attributable to a citizen involvement program may be even more difficult since, in many cases, self-selected participants in involvement programs are likely to start out with a high level of confidence in their political efficacy. If confidence remains at a high level at the end of a program, interpretation of the impact of the citizen involvement experience is difficult.

Behavioral Measures. Beyond the attitudinal indicators of trust and confidence, one may also try to ascertain change in system support by observing trends in organizational membership and activity among the affected public. Behavioral consequences of increased trust and confidence include not only greater participation in officially-sanctioned activities such as elections and citizen involvement programs, but also more intense activity in private

interest organizations that attempt to influence policy. Indeed, as many theorists and scholars have suggested, the richness and vigor of organizational life is one of the principal indicators of a democracy's health.<sup>22/</sup>

Two strategies of assessment are available for evaluation research. First, one might inquire directly about the number of organizational memberships and the extent of voluntary activity through a sample survey of participants.<sup>23/</sup>

Through the same type of research design utilized in the attitudinal research, the effect of confounding variables could be disentangled by using control groups, time-series, and so forth.

Second, a more general and impressionistic assessment of increases in trust and confidence might be obtained by charting the growth of issue-related voluntary organizations in the affected community over time. A substantial increase in the number and activity of such organizations in the period following the initiation of a citizen involvement program would provide at least prima facie evidence of program effectiveness. This interpretation would, however, be subject to alternative explanations in the absence of further efforts to verify a direct impact.

NOTES -- CHAPTER III

1. The search for the "public interest" is, of course, a traditional legitimating principle of decision-making by administrative agencies, dictated not only by most authorizing statutes but by professional canons of "rational" and "disinterested" public administration. However, as part of the post-war disillusionment with the capacity of administrative agencies to be objective and impartial, the notion of the public interest has fallen upon hard times. Many critics and commentators now dismiss the concept as little more than myth or ideology, a theological construct which has little relevance to the realities of hard bargaining among the organized interests and administrative agencies. See Charles Reich, "The Law of the Planned Society," 75 Yale Law Journal 1227 (1966).

Indeed, most authors recognize that the "public interest" model of administrative decision-making was replaced long ago in fact if not in name by the "interest representation" approach, in which the central task of decision-making is viewed as mediating and conciliating the interests of whichever organized groups enjoy standing in and access to agency proceedings. Theodore Levi, The End of Liberalism (New York: Norton, 1969); Michael Harmon, "Administrative Policy Formulation and the Public Interest," 29 Public Administration Review 483 (1969). Ironically, the entire "public interest" movement of the last decade--with its emphasis on procedural participation rights and intensive advocacy of underrepresented interests--accords more with the interest representation approach than with the traditional conception of identifying and defending the collective interest. Simon Lazarus and Joseph Onek, "The Regulators and the People," 57 Virginia Law Review 1069 (1971).

Despite this accepted wisdom, it is still possible to retain faith in the protection of the public interest as a central goal of administrative decision-making and as a practical and feasible guide to agency action. This faith is based upon the propositions that a) well-designed citizen involvement programs can provide an accurate idea of what the affected public, both organized and unorganized, desires and b) agency procedures and incentives can be structured in such a way that bureaucratic self-interest stimulates responsiveness to the direction of majority or plurality preference among the affected public. This is not to say that the public interest is automatically equivalent to the direction of untutored majority or plurality preferences. We do maintain, however, that if the policy alternatives presented for public consideration are formulated within the constraints of legal and technical feasibility, then the public interest must be presumed to coincide with the direction of majority or plurality preference unless there is compelling evidence that citizens lack adequate information and experience to gauge their own interests. For an elaboration of this argument and a discussion of alternative models of citizen involvement in administrative decision-making, see Nelson Rosenbaum, "Evolution of Citizen Involvement in Federal Domestic Programs" in C. Bezold (editor), Anticipatory Democracy (New York, Random House, forthcoming).



2. Nelson Rosenbaum, Citizen Involvement in Land Use Governance: Issues and Methods (Washington, D.C., The Urban Institute, 1976).
3. For example, affected populations may be identified through empirical techniques of impact analysis. For an overview of impact analysis methodology in the field of land use, see Phillip Schaenman, Using an Impact Measurement System to Evaluate Land Development (Washington, D.C.: The Urban Institute, 1976), and references cited therein.
4. For a comprehensive analysis of the problem of achieving fairness in administrative decision-making, see Richard Stewart, "The Reformation of American Administrative Law," 88 Harvard Law Review 1669, 1682-1685 (1975).
5. On techniques of elite interviewing which probe the subjective sources of decision-making, see Lewis Anthony Dexter, Elite and Specialized Interviewing: Handbook for Research in Political Behavior (Chicago: Northwestern U. Press, 1970).
6. See Joel Aberbach and Bert Rockman, "Administrators Beliefs About the Role of the Public: The Case of American Federal Executives," paper delivered at the 1975 Annual Meeting of the American Political Science Association, San Francisco, September 1975; Daniel Mazmanian and Paul Sabatier, "The Attitudes of an Administrative Elite: The Commissioners and Staffs of the California Coastal Commission," paper delivered at the 1976 Annual Meeting of the Western Political Science Association, San Francisco, April 1976.
7. See Kenneth Davis, Administrative Law Text (St. Paul: West Publishing Co., 1972); Paul Appleby, Policy and Administration (University, Alabama: University of Alabama Press, 1975); Robert Presthus, Public Administration (New York: Ronald Press, 1975).
8. Daniel Mandelker, "The Role of the Local Comprehensive Plan in Land Use Regulation," 74 Michigan Law Review 901 (1976); A. Dan Tarlock, "Consistency With Adopted Land Use Plans as a Standard of Judicial Review: The Case Again," 9 Urban Law Annual 69 (1975).
9. See Anne Schneider, "Measuring Political Responsiveness: A comparison of Several Alternative Methods," in J. Pierce and H. Doerksen (editors), Water Politics and Public Involvement (Ann Arbor: Science Publishers, 1976).
10. Sidney Verba and Norman Nie, Participation in America (New York: Harper and Row, 1972); R. D. Hedlund and H. P. Friesma, "Representatives' Perceptions of Constituency Opinion," 34 Journal of Politics 730 (1972).
11. Samuel Huntington, Political Order in Changing Societies (New Haven, Yale University Press, 1970); William Gamson, "Political Trust and Its Ramifications," in G. Abcarian and J. Soule (editors), Social Psychology and Political Behavior (Columbus, Ohio: Merrill, 1971); Talcott Parsons, "Some Reflections on the Place of Force in Social Process," in Harry Eckstein (editor), Internal War (New York: Free Press, 1964).
12. See Richard Shingles, "Community Action and Attitude Change: A Case of Adult Political Socialization," 5 Experimental Study of Politics (1975); Richard Cole, Citizen Participation and the Urban Policy Process (Lexington, Mass.: Lexington Books, 1974), Chapter 6.

13. Elizabeth Douvan and Alan Walker, "The Sense of Effectiveness in Public Affairs," 70 Psychological Monographs, Whole No. 429 (1956); Herbert McClosky and John Schaar, "Psychological Dimensions of Anomie," 30 American Sociological Review 14 (1965); Edward McDill and J. C. Ridley, "Status, Anomia, Political Alienation, and Political Behavior," 68 American Journal of Sociology 205 (1962); M. K. Jennings and Richard Neimo, The Political Character of Adolescence: The Influence of Families and Schools (Princeton: Princeton University Press, 1974); David Schwartz, Political Alienation and Political Behavior (Chicago: Aldine, 1973).
14. Edward Banfield and James Q. Wilson, City Politics (New York: Vintage Books, 1963); James Q. Wilson and Edward Banfield, "Public Regardiness as a Value Premise in Voting Behavior," 58 American Political Science Review 876 (1964).
15. Angus Campbell, "The Passive Citizen" in Stein Rokkan (editor) Approaches to the Study of Political Participation (Bergen: Michelson Institute, 1962); Joel Aberbach, "Alienation and Political Behavior," 63 American Political Science Review 86 (1969); Giuseppe De Palma, Apathy and Participation: Mass Politics in Western Societies (New York: Free Press, 1970); Sidney Verba and Norman Nie, Participation in America: Political Democracy and Social Equality (New York: Harper and Row, 1973).
- 16.) A variety of scales measuring trust in government are found in John Robinson et. al. Measures of Political Attitudes (Ann Arbor, Mich.: University of Michigan Survey Research Center, 1970). The most widely used measure is the Survey Research Center's own Political Trust Scale. See, for example, Angus Campbell, The American Voter (New York: Wiley: 1962).
18. On the need for vigorous research methodology in evaluating the causal impact of social programs over time, see Carol Weiss, Evaluation Research: Methods of Assessing Program Effectiveness (Englewood Cliffs, N.J.: Prentice Hall, 1972). See also Edward Suchman, Evaluative Research: Principles and Practice in Public Service and Social Action Programs (New York: Russell Sage, 1968).
19. Donald T. Campbell and Julian Stanley, Experimental and Quasi-Experimental Designs for Research (Chicago: Rand McNalley, 1966); Donald Campbell, "Reforms as Experiments," 24 The American Psychologist 409 (1969).
20. On the hazards of poorly designed and misleading evaluation research, see Alice Rivlin, Systematic Thinking for Social Action (Washington, D.C.: Brookings, 1971); Peter Rossi, "Practice, Method, and Theory in Evaluating Social Action Programs," in James Sundquist (editor), On Fighting Poverty: Perspectives From Experience (New York: Basic Books, 1969); Edward Suchman, "Action for What: A Critique of Evaluative Research" in Richard O'Toole (editor), The Organization, Management, and Tactics of Social Research (Cambridge, Mass.: Schenkman, 1970).

20. On the independent impact of political self-confidence on political participation, see Ada Finifter, "Dimensions of Political Alienation," 64 American Political Science Review 389 (1970); E. N. Muller, "Cross National Dimensions of Political Competence," 64 American Political Science Review (1970).

Several scholars suggest, however, that trust in government and political self-confidence are such closely intertwined orientations that it may be unproductive to attempt to disentangle their impact on political participation. See Giuseppe Di Palma, Apathy and Participation, op. cit. Chapter 3.

21. The standard measure is the scale of "political efficacy" developed by the University of Michigan Survey Research Center. See Robinson et. al., Measures of Political Attitudes, for this measure as well as related scales. Examples of its utilization are found throughout the political science literature. See, for example, Angus Campbell et. al., The American Voter, loc. cit. For a listing of more than forty studies utilizing this scale, see David Easton and Jack Dennis, "The Child's Acquisition of a Regime Norm: Political Efficacy," 61 American Political Science Review 25 (1967).

Recent research indicates that the "political efficacy" scale may be both conceptually and technically flawed. For example, several scholars suggest that the political efficacy scale confuses evaluations of personal political confidence and perceptions of general governmental responsiveness to citizen participation. See E.N. Muller, "Cross-National Dimensions of Political Competence," loc. cit.; S. H. Barnes, "Leadership Style and Political Competence," in Lewis Edinger (editor) Political Leadership in Industrialized Societies (New York: Wiley, 1970).

Other researchers suggest that response set may skew the validity of the political efficacy scale. J. D. Wright, "Does Acquiescence Bias the Index of Political Efficacy," 39 Public Opinion Quarterly 219 (1975); H. Asher, "The Reliability of the Political Efficacy Items," 1 Political Methodology 45 (1972).

22. This conception of democracy derives, of course, from a long and distinguished tradition. Perhaps the classic argument is found in J. S. Mill, Considerations on Representative Government, edit. Currin Shields (Indianapolis: Babbs-Merrill, 1958).

Modern restatements of this theme may be found in Carole Pateman, Participation and Democratic Theory (Cambridge: Cambridge University Press, 1970); Dennis Thompson, The Democratic Citizen (Cambridge: Cambridge University Press, 1970).

On the relationship between organizational membership and organizational activity as it affects democratic politics, see Herbert Maccoby, "The Differential Political Activity of Participants in a Voluntary Association," 23 American Sociological Review 524 (1958); James Q. Wilson Political Organizations (New York: Basic Books, 1973). Sidney Verba and Norman Nie, Participation in America, op. cit., Chapter 11.

23. See, for example, Charles Wright and Herbert Hyman, "Voluntary Association Memberships of American Adults: Evidence From National Sample Surveys," 23 American Sociological Review 284 (1958). For a note of caution on the use of surveys in measuring voluntary organization membership and activity, see David Smith, "Comparison of Self-Reported Participation in Formal Voluntary Organizations with Ratings by Organization Leaders," 31 Rural Sociology 362 (1966).

#### IV. STATE CASE STUDIES: RESEARCH DESIGN

As state land use statutes have diffused across the nation during the 1970s, many state agencies have gained a substantial amount of experience in planning and regulating the course of development. As part of this experience, major efforts have been devoted to the implementation of legislative mandates for citizen involvement in administrative decision-making. As yet, however, there has been no systematic empirical assessment of the effectiveness of these state-level involvement programs. Chapters V through X of this study address the need for such an evaluation through a series of six comparative case studies of citizen involvement in state land use decision-making.

The case studies incorporate two major objectives: 1) to provide detailed policy guidance to state legislatures and administrative agencies on how to design and implement effective citizen involvement programs at the state level, 2) to demonstrate the practical usefulness of the framework of program evaluation outlined in Chapter III. This chapter specifies the major facets of case-study research design; including the criteria for selection of case study programs, the specific research tasks undertaken in the assessment, and the research methods utilized in carrying out these tasks.

##### Case Study Selection

The six state case studies are divided into three sections. Each set of two studies deals with a separate category of administrative decision-making: a) the formulation of policies and plans, b) the preparation of rules and regulations,

and c) the application of policies and rules to specific cases. This scheme of comparative analysis was selected both for theoretical and practical reasons.

As specified in the preceeding chapter, the challenges of citizen involvement--particularly with respect to the identification of the affected public and the potential for responsiveness to public preferences--differ substantially across the different categories of administrative action. Thus, it is most appropriate to make comparisons of program effectiveness within rather than between categories. In order to be most useful on a practical basis in the design of future citizen involvement programs, the study therefore includes two program analyses within each category. Additional case studies in each category would have been desirable for comparative purposes, but were beyond the resources of this study.

Within each category, potential case study programs were initially screened on the basis of two sets of criteria:

- 1) Evidence of significant commitment by the administrative agency to the implementation of citizen involvement programs going beyond pro forma adherence to statutory mandates. As screening criteria, we considered expenditure levels, personnel allocations, publicity and publications about the program, and so forth.
- 2) The timing of the program. The programs of greatest interest were those that had recently been completed--i.e. a final decision had been made by the administrative agency involved and citizens had exercised their appeal rights if they chose to do so. Programs that had not yet run their course and those that had been completed more than two years previously were given less consideration in the selection process.

In making the final selection of case studies from the top ranking programs in each category of decision-making, we attempted to achieve some balance across the entire group of six states.

First, we tried to examine a variety of different land use controls--i.e. general growth management, major facility siting, natural areas protection, and so forth. These different types of land use issues typically involve quite different constituencies and produce different kinds of impacts. Thus, the challenge of citizen involvement may vary significantly. Of course, with only two case studies in each category, we could not include a full range of land use issues. However, each of the two case studies per category does deal with a different aspect of land use control.

Second, we attempted to achieve some balance among states in size and regional background. Size was a relevant criterion because citizen-involvement is likely to be considerably more difficult in states with large, dispersed populations than in those with smaller and more compact populations. Regional background was considered because the various regions of the country differ substantially in political traditions and governmental organization. For example, the states of the western United States have historically been characterized by stronger state governments and more vigorous citizen involvement through initiative and referendum than states in any other region of the nation.<sup>1/</sup> To select case studies only from the western states would thus give a skewed view of the environment in which citizen involvement programs operate at the state level. The case studies therefore include at least one state from each of the major regions: Northeast, South, Midwest, and West.

After the tentative list of six case studies was prepared, requests for cooperation were made to the relevant state administrative agencies. In all but one case, permission was granted. In the one case where permission

was denied, a substitute case study was selected that was as similar as possible. Permission was then secured for the substitute and the final list of case studies was confirmed as it appears in Figure IV-1.

#### Research Tasks

The initial task of the state case studies was to describe and analyze the process of program development. How detailed was the legislative mandate for citizen involvement? What procedural participation rights were guaranteed to citizens? Who was delegated operational responsibility for program design? How were particular involvement techniques selected? What were the budgetary constraints on program development? Answers to these questions provide essential background to the assessment of effectiveness by illuminating the conception of the affected public incorporated in the program and by clarifying the reasons for the utilization of particular techniques.

The major task of the state case studies was to evaluate the effectiveness of citizen involvement programs at the procedural and the policy levels. Assessment of program effectiveness on the political system level was eliminated for two reasons.

First, it was not possible given the time and resource constraints of our research effort to conduct a well-designed evaluation on the political system level. To follow a citizen involvement program from start to finish could easily occupy two to three years for the more complex land use decisions. Surveying a control group in each state as well as the citizen participants themselves over this extended period time would require far greater research resources than were available.



FIGURE IV-1

SUMMARY OF STATE CASE STUDIES

<u>State</u>	<u>Statutory Authority</u>	<u>Land Use Program</u>	<u>Dates of Program Operation</u>	<u>Responsible State Administrative Agency</u>	<u>Type of Administrative Decision-Making</u>
California	Proposition 20 (1972)	Development of California Coastal Plan	1973-1976	California Coastal Zone Conservation Commission	Policy Planning
Rhode Island	(1965)	Formulation of State Land Use Policies and Plan	1969-1976	State Planning Council	
Oregon	SB 100 (1973)	Preparation of State Planning Goals and Guidelines	1974-1975	Land Conservation and Development Commission	Rule-Making
North Carolina	Coastal Area Management Act (1974)	Designation of Interim Areas of Environmental Concern	1975-1976	Coastal Resources Commission	
Minnesota	Power Plant Siting Act (1973)	Selection of Power Plant Sites and Transmission Line Corridors	1974-1976	Minnesota Environmental Quality Commission	Permitting
Hawaii	Land Use Act (1961)	Five Year District Boundaries and Regulations Review	1973-1975	State Land Use Commission	

Second, change in support for the political system figures less prominently as an objective of legislative mandates for citizen involvement in land use decision-making than in many other areas of policy. In contrast to areas like community development and social services, in which many of the citizens who participate in decision-making are likely to come from lower-income segments of the population, most of the citizen participants in state land use decision-making are likely to come from middle-class strata where feelings of personal political efficacy are already quite high and alienation from government runs less deep.<sup>2/</sup>

Assessing the effectiveness of citizen involvement programs at the procedural level assumes particular importance due to the novel methodological challenges faced in the state context: large, widely-dispersed populations; a low level of familiarity with and knowledge about state government; deficiencies in statewide media coverage; a paucity of voluntary organizations prepared to work at the state level. Few state agencies have had prior experience in confronting these challenges and those that have developed state-wide programs under federal requirements have apparently had little success.<sup>3/</sup> Thus, state land use agencies must typically start from scratch in attempting to devise accessible and efficient programs.

Evaluation of program effectiveness at the policy level also assumes special significance since few state agencies have ever been subjected to intensive scrutiny about the fairness and responsiveness of their decision-making processes. State agencies have typically been relatively insulated from public exposure due to the obscurity of state government and the routine character of much of their work. As state agencies are thrust into the novel environment

of highly controversial decision-making and extensive public exposure through citizen involvement programs, the behavioral consequences are unpredictable. Our six case studies represent one of the first efforts to gauge the impact of these new conditions upon decision-making behavior at the state level.

### Methodology

The case studies are based upon three primary sources of original data: 1) a sample survey of citizens who participated in some significant way in the involvement programs, 2) personal interviews with official decision makers of each state administrative agency, with key legislative leaders, and with representatives of major citizen interest groups, 3) a collection of official transcripts and meeting records from each state which clarify the process by which decisions were made. This evidence is supplemented by a number of secondary sources; including media reports, legislative records, and administrative analyses produced by the state agency itself. Field work in each state occupied approximately two weeks, during which time a number of citizen participation activities were personally observed by the researchers as a further basis for evaluation.

Citizen Participant Survey. As the principal means of obtaining the affected public's reaction to the procedures utilized in the citizen involvement program and perceptions of the fairness and responsiveness of administrative decisions, a questionnaire survey was undertaken of a random sample of citizens who participated in the involvement program. Sample size was 150 in each state, except for two cases in which less than 150 individual citizen participants could be identified.

The population of citizen participants from which the sample was drawn was identified from the official records of the administrative agency. Lists were compiled by obtaining the names and addresses of all citizens who attended a public hearing, informational meeting, or workshop; who telephoned agency officials; who wrote a letter; or who participated on advisory committees or task forces. The rationale for this mode of constructing population lists is that the individuals who participated in one or more of these ways are likely to have a significant stake in the outcome of the decision-making process and substantial knowledge about the various procedures of the involvement program. Thus, we could anticipate a high response rate to the survey and relevant answers to most of the questions. Indeed, out of a total of 747 questionnaires distributed by mail in the six states, 493 were returned for an excellent response rate of 67%.

Of course, this means of constructing the sampling frame is subject to some question about how accurately it represents the entire affected public. Those who participate in one of the ways cited above are a self-selected group which is likely to be distinguished by a level of sophistication and political activism above that prevailing among the affected public as a whole. Thus, the views of this group on program effectiveness may not correspond closely with the views of the general affected public. But do the members of the affected public who do not participate in some significant way have any views? How can an individual respond meaningfully to a question about an event he did not participate in or a decision he may be only vaguely aware of. Thus,

while we seriously considered the option of attempting a sample survey of the affected public as a whole--assuming the population could be accurately identified--the idea was rejected because we felt that response rates would be so low and answers to questions so vague and misleading that the results would not justify the effort.

In sum, our citizen participant survey provides a baseline estimate of program effectiveness on the procedural and policy levels among the most active and involved segment of the affected public. The questionnaire utilized in the citizen participant survey is presented in Appendix A. Six different editions were produced that were appropriate for each of the state case studies.

• Elite Interviews. A variety of personal interviews was conducted in each state to obtain the reactions and perceptions of elite groups relevant to the citizen involvement program.

First, we attempted to interview all of the official decision-makers of the state administrative agencies using a semi-structured interview protocol. Official decision-makers refers to the appointed members of the commissions and boards--i.e. those who enjoyed a formal vote. We were not successful in obtaining interviews with all decision-makers because of the size and composition of some bodies, but a sufficient number was interviewed in each state to obtain a good grasp of how the contribution of the citizen involvement program was viewed.

Second, interviews were conducted with a selected group of legislative leaders, including those responsible for the passage of the relevant land use statute and those responsible for any significant amendments to the statute relating to citizen involvement. The total number of such interviews in each state typically amounted to five or six.

Finally, leaders of major interest groups were identified and interviewed for further perspective on program effectiveness. The major interest groups were identified through a reputational process of eliciting nominations from knowledgeable observers as well as through examination of official records.<sup>4/</sup> The interviews were totally unstructured and amounted to approximately 15 in each state.

Documents. As a means of grounding the attitudinal assessments in more concrete detail, we collected whenever possible official transcripts of public hearings and other decision-making sessions that illuminate how decision-makers utilized information on citizen preferences and priorities. In some cases, the administrative agencies themselves produced detailed summaries of these decision-making deliberations as a means of accounting to the public. Under these circumstances, we utilized the original documents only as a crosscheck on the validity of the agency summary. In cases where an agency summary was not available, we systematically analyzed and summarized the original documents ourselves as an aid to evaluating the fairness and responsiveness of decision-making.

NOTES -- CHAPTER IV

1. Herbert Jacob and Kenneth Vines (editors), Politics in the American States: A Comparative Analysis (Boston: Little Brown, 1965), Chapters 1-4. Ira Sharkansky, Regionalism in American Politics (Indianapolis, Bobbs-Merrill, 1970).
2. Citizens who involve themselves voluntarily in land use controversies (planning, zoning, permitting, etc.) are usually homeowners or landowners and thus represent the middle to upper-income strata of the American population. See, R. Linowes and D. Allensworth, The Politics of Land Use: Planning, Zoning, and the Private Developer (New York: Praeger, 1973); Anthony Catanese, Planners and Local Politics: Impossible Dreams (Beverly Hills: Sage, 1974). This applies with particular force to involvement in state land use control, which, because of the distance and unfamiliarity of state government, usually requires a greater investment of time and energy by the citizen participant than that required for participation in urban land use regulation.

This is not to say that state-level citizen involvement programs should limit participation to the self-selected few. Indeed, many programs have reached out to affected citizens in all strata of the population who may be disaffected from the political system and low in political self-confidence. Changing their attitudes may thus be an important criterion of program effectiveness. The point is, however, that change in attitudes is not viewed as a major goal of citizen involvement by most legislators because the presumption is that most citizen participants will already be high in trust and confidence. This contrasts, as noted, with the presumption in social service and community development contexts that most participants are likely to come from lower-income strata.
3. See, for example, James F. Ragan, et al., Assessment of Public Participation in the Implementation of the Federal Water Pollution Control Act Amendments of 1972, Final Report to the National Commission on Water Quality (Washington, D.C.: The Commission, 1975); Judy Rosener, The CALTRANS Public Participation Program: Evaluation and Recommendations, Contract Report to the California Department of Transportation (Irvine, Cal.: U. Cal. Graduate School of Administration, 1975); Walter A. Rosenbaum, "Slaying Beautiful Hypotheses With Ugly Facts: EPA and the Limits of Public Participation," paper presented to the National Conference on Public Administration, Chicago, Illinois, March 1975; Anthony Scoville and Adrian Noad, Citizen Participation in State Government, Final Report to the National Science Foundation (Montpelier, Vermont: Environmental Planning Information Center, 1973).
4. On the "reputational" method of identifying community leaders who are influential in policy-making the seminal work is, of course, Floyd Hunter, Community Power Structure (Chapel Hill: University of North Carolina, 1953). Subsequent research on patterns of influence in policy-making, including critiques of the reputational approach, has been voluminous. For a balanced review of the alternative approaches to this subject, see Charles Bonjean, Terry Clark, and Robert Seneberry (editors), Community Politics: A Behavioral Approach (New York: The Free Press, 1971).

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